

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.

Friday, February 11, 2011

Tenue à :

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

le vendredi 11 février 2011

APPEARANCES / COMPARUTIONS

Wendy Baker, Q.C. Maia Tsurumi	Associate Commission Counsel Junior Commission Counsel
Mitch Taylor, Q.C. Hugh MacAulay	Government of Canada ("CAN")
Boris Tyzuk, Q.C. Clifton Prowse, Q.C.	Province of British Columbia ("BCPROV")
No appearance	Pacific Salmon Commission ("PSC")
No appearance	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.

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

APPEARANCES / COMPARUTIONS, cont'd.

No appearance	Sto:lo Tribal Council Cheam Indian Band ("STCCIB")
James Hickling	Laich-kwil-tach Treaty Society Chief Harold Sewid, Aboriginal Aquaculture Association ("LJHAH")
No appearance	Heiltsuk Tribal Council ("HTC")
Lee Schmidt	Musgamagw Tsawataineuk Tribal Council ("MTTC")

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1 Vancouver, B.C. /Vancouver
2 (C.-B.)
3 February 11, 2011/le 11
4 février 2011
5

6 THE REGISTRAR: Order. The hearing is now resumed.
7

8 WAYNE SAITO, Recalled.
9

10 GERRY KRISTIANSON, Recalled.
11

12 MS. BAKER: Thank you, Mr. Commissioner. Today we are
13 back with a panel of witnesses dealing with
14 decision-making. And you remember we excused Mr.
15 Matthew last day, so we have Gerry Kristianson and
16 Wayne Saito back. And the first counsel, we left
17 off with the Province last time, and I think we're
18 starting with Canada now.

19 MR. MacAULAY: Mr. Commissioner, for the record, Hugh
20 MacAulay for the Government of Canada. I'll be
21 very brief.
22

23 CROSS-EXAMINATION BY MR. MacAULAY:
24

25 Q Dr. Kristianson, early in your testimony you
26 described the Sport Fishery Advisory Board as
27 having a wide constituency, and I thought it might
28 be helpful for Mr. Commissioner and the rest of us
29 just to take a quick look at the Terms of
30 Reference for the SFAB, if I could have, Mr. Lunn,
31 that's number 2 on Canada's list of documents.

32 First, Dr. Kristianson, are these the current
33 Terms of Reference for the SFAB?

34 DR. KRISTIANSON: Yes, they are.

35 Q And so if we go to page 3, near the bottom there's
36 a long list, I won't read all of the organizations
37 that have representation on the SFAB, but is that
38 the wide constituency that you referred to?

39 DR. KRISTIANSON: Yes, it's wide in two contexts. The
40 attempt in the Board, and it's part of the terms
41 of reference in other places, is to represent both
42 what is termed the primary sector, which are
43 ordinary people who like to go fishing, and the
44 secondary sector, which is composed of people
45 whose economic interests lie in providing services
46 to recreational angling. And so in that list you
47 see the combination of that, Marine Trades

1 Association, Marina Operators, the Sport
2 Institute, as the secondary side. The primary
3 side, BC Wildlife Federation, Federation of Drift,
4 Fly Fishers, et cetera. But and each of these are
5 entitled to representatives on the Board.

6 There are then, and I think it's 24 or 25
7 local committees at the present time. And in
8 those local committees, in a sense anyone who
9 attends the meeting is usually part of it. And
10 they are considered public meetings. People are
11 entitled to attend. They vary a little bit in
12 their composition for historical reasons. But
13 each of those local committees selects people to
14 become part of the North and South Regional Board,
15 and each of those Regional Boards selects seven to
16 become part of the Main Board, as well as other
17 Main Board representatives who reflect these
18 organizations. Or as in my case, I am a part of
19 the process because I am the SFAB nominee to be
20 the Salmon Commissioner who represents the
21 recreational sector interests.

22 Q Thank you, that's very helpful. In your view,
23 does the SFAB provide an effective means for DFO
24 to receive advice and input from the recreational
25 fishing sector in British Columbia?

26 DR. KRISTIANSO: Yes, I do. And I would note that in
27 most instances where this issue is being
28 discussed, the SFAB is kind of cited as the
29 paradigm, it would be, and this was true of when
30 Steven Owen and the University of Victoria people
31 did their work, they indicated that the SFAB
32 appeared to be a better mix of local and regional
33 and intrasectoral interests than had been possible
34 with other sectors.

35 Q Thank you, that's very helpful. Mr. Saito, just a
36 question about the Integrated Harvest Planning
37 Committee. The terms of reference for that
38 committee are already an exhibit, Exhibit 342. I
39 don't think I need them brought up. But the terms
40 of reference provide for representation from the
41 Province of British Columbia on that committee; is
42 that correct?

43 MR. SAITO: Yes, that is correct in an *ex officio*
44 capacity.

45 Q And, Mr. Saito, have you been that representative
46 over the years?

47 MR. SAITO: I have.

1 Q In your view does the IHPC, the Integrated Harvest
2 Planning Committee, provide an effective means for
3 the Province of British Columbia to provide its
4 advice and input to DFO with respect to the
5 management of Fraser sockeye fisheries?

6 MR. SAITO: Sorry, could you repeat that question?

7 Q Sure. In your view, does the IHPC provide an
8 effective means for the Province of British
9 Columbia to provide its advice and input to DFO
10 with respect to Fraser sockeye fisheries?

11 MR. SAITO: It is an effective mean, yes.

12 MR. MacAULAY: Thank you. Those are my questions.

13 MS. BAKER: Were you planning to mark the terms of
14 reference, Mr. MacAulay?

15 MR. MacAULAY: Thank you, Ms. Baker.

16 MS. BAKER: Were you going to mark the terms of
17 reference?

18 MR. MacAULAY: Thank you for reminding me. Yes,
19 please, Mr. Registrar, if you could mark that as
20 an exhibit, that would be great.

21 THE REGISTRAR: Exhibit number 421.

22 MR. MacAULAY: Thank you.

23

24 EXHIBIT 421: Sport Fishery Advisory Board
25 Terms of Reference, January 2010 (SFAB)

26

27 MR. ROSENBLOOM: Thank you very much, Mr. Commissioner.
28 Don Rosenbloom, appearing for Area B Seiner and
29 Area D Gillnet.

30

31 CROSS-EXAMINATION BY MR. ROSENBLOOM:

32

33 Q I thank both gentlemen for returning. Just to put
34 everything in context, because we are dealing with
35 such a disjointed process, where you're on and off
36 from day-to-day. For the record, you first
37 appeared on February the 1st, and testified during
38 a portion of that day; is that not correct?

39 MR. SAITO: Yes.

40 DR. KRISTIANSO: Yes, I believe that's true.

41 Q Yes. And then you carried on further as a panel
42 on February the 3rd; is that not correct?

43 DR. KRISTIANSO: If that's last Thursday, that's
44 correct.

45 Q All right. Well, if Commission counsel doesn't
46 jump up, let's assume that to be the record. And
47 today being your third appearance. Just to put

1 into context the areas that I want to focus on,
2 you have been called to testify in part about the
3 effectiveness of the consultative process; is that
4 not correct?

5 DR. KRISTIANSO: That is correct.

6 Q Yes. And part of that consultative process is
7 obviously, in part, the Commercial Salmon Advisory
8 Board, the Integrated Harvest Planning Committee,
9 and the Integrated Fishery Management Plan; is
10 that not correct?

11 DR. KRISTIANSO: That's correct.

12 Q And part of your testimony, both of you, related
13 to the in-season decision-making after one has
14 gone through the processes pre-season; is that not
15 correct?

16 DR. KRISTIANSO: That's right.

17 Q Right. And so appreciating all that, my cross-
18 examination in part is focused on testimony that
19 you gave over the last two days. Let's start with
20 you, Dr. Kristianson. There's an interesting
21 exchange you had with various counsel, including
22 Commission counsel, about whether or not there is
23 a need for technical assistance of the parties to
24 have their own individual technical assistance in
25 having input into the processes that we're
26 speaking about, and in particular the Integrated
27 Harvest Planning Commission. You remember that
28 testimony from last day?

29 DR. KRISTIANSO: I do.

30 Q Yes. And if I can correctly summarize what I
31 understood you to be saying last day, you are not
32 comfortable with to suggest that each of the
33 parties coming before this committee should have
34 their own technical advisors, correct?

35 DR. KRISTIANSO: That's correct.

36 Q Yes. And in the context of your concern or your
37 opinion in that regard, you make the point - and I
38 am happy to take you to the transcript, but I
39 don't think any of this is controversial - you
40 said, and this would have been, just for the
41 record, on the 1st of February and it happens to
42 be page 27, and I'm just reading you one line and
43 I don't think it's even important for Mr. Lunn to
44 put it forward unless you want to see it. You
45 said at line 32:

46
47

 And so, you know, my vision of the technical

1 support is that a well-funded Department with
2 highly qualified staff does the primary
3 technical work.
4

5 And then you went on from there.

6 Now, what I want to explore is when you say
7 "a well-funded Department" doing this work, are
8 you suggesting that that is the status quo, that
9 is in fact the role that DFO is playing in
10 providing the parties at this committee with the
11 kind of technical assistance, or is it that you're
12 saying, look, I would opt for a well-funded
13 Department providing this technical assistance if
14 they were well-funded, but right now, they're not.
15 What is your response?

16 DR. KRISTIANSO: Well, it's the latter. I mean, I
17 believe that that that's the way the system ought
18 to operate, which is that the Department of
19 Fisheries and Oceans is funded well or adequately
20 to provide the scientific research, the transition
21 of that research into advice to management, and
22 that information being available to all of the
23 players, to help make the best decisions.

24 Do I think that the Department is adequately
25 funded? Well, I don't pretend to be an expert on,
26 you know, the balance that government should take
27 in that context. It is obvious, I think, to
28 anyone that the funds available to the Department
29 of Fisheries and Ocean in Pacific Region have been
30 decreasing year by year as a result of constraint
31 decisions taken in Ottawa, probably for important
32 reasons, but that nonetheless in terms of the
33 amount of catch monitoring that goes on, the stock
34 assessment work, the things that in particular
35 that I deal with as a Salmon Commissioner with a
36 primary interest in chinook, you know, could we do
37 better with more? My answer would be "Yes".

38 Q But coming back to the focus, when you recommend
39 to this Commission that in your opinion it would
40 not be advisable for each of the parties, the
41 constituent membership of the IHPC, to have their
42 own technical advisors, you say a well-funded
43 Department really should be providing that
44 technical assistance. Is it your testimony that
45 at this point in time that the DFO is not
46 providing the necessary technical assistance for
47 the parties to be well equipped to make decisions

1 at that level?

2 DR. KRISTIANSO: Well, I can only speak for the
3 recreational sector. I can't make judgments on
4 behalf of others. I think that by and large we do
5 get good assistance from the Department insofar as
6 our sector is concerned, but I hasten to add that
7 I think that the basic amount of data that's
8 available is not adequate. It's for that reason,
9 for example, as a private individual I sit on the
10 Board of the Pacific Ocean Shelf Tracking Project
11 and have been trying to persuade government to
12 fund that project so that there would be more
13 scientific information available.

14 Q But recognizing the Department is not well-funded,
15 do you recognize that at this point in time the
16 parties generally are not provided with adequate
17 technical assistance to make the kind of decisions
18 that you're being called upon to make?

19 DR. KRISTIANSO: Well, I don't think I would be that
20 categoric about it. I mean, I'm not sure that I'm
21 equipped to judge the level of technical
22 assistance. I was really trying to address a
23 somewhat different issue, I guess. I am concerned
24 that when advisory bodies become composed of
25 people who are there to argue the policy issues on
26 behalf of their constituencies, then they feel the
27 need to bring in their own technical advisors so
28 that the forum becomes a war between competing
29 technical advisors, I personally find that that's
30 not helpful. And hence my belief that our sector
31 is better served when that technical advice is
32 coming from an impartial body, the Department of
33 Fisheries and Oceans, then we aren't placed in the
34 position where each of us is suspicious of the
35 other constituency's advisor, technical advisors,
36 because, hey, we know he who pays the piper, calls
37 the tune.

38 Q Yes. But to avoid that kind of process that you
39 find unacceptable, your position is really
40 predicated upon DFO being well enough funded to
41 provide the kind of technical assistance that the
42 parties will require in a collective way at the
43 committee; is that not correct?

44 DR. KRISTIANSO: I would agree with that, yes.

45 Q Yes. Just of interest, Mr. Saito, do you have any
46 comments to make in respect to this exchange I've
47 just had with Dr. Kristianson?

1 MR. SAITO: Well, open questions like this are
2 difficult.

3 Q Well, yes. I'm only inviting you if you feel that
4 you have a contribution you'd like to make.

5 MR. SAITO: Yes. Thank you, I appreciate the
6 opportunity. I believe that specific advice to
7 the sectors also has value. There's a fine
8 balance to be struck between the objectivity and
9 the level of professionalism that DFO staff would
10 have to maintain to provide to be freely and
11 openly available to all sectors, versus specific
12 questions being answered, or answers being
13 provided to specific questions to a specific
14 sector. I have had the good fortune, perhaps, of
15 experiencing that at the international level, as
16 well as within the IHPC, and that there are
17 questions that sometimes are very specific to the
18 interests of a recreational fishing sector, or
19 commercial, or marine conservation, or perhaps
20 First Nations, that sometimes it's the slant, it's
21 the interpretation that is of importance, because
22 there often are options to consider. I can't
23 disagree with Dr. Kristianson that if DFO were to
24 be fully funded and were to maintain a high level
25 of neutrality and objectivity, I think that would
26 be the perfect system.

27 Q Do you, Mr. Saito, believe that the members of the
28 IHPC all have a grasp of the complex issues that
29 are facing them and asking for decisions?

30 MR. SAITO: Well, I think I probably will be offending
31 people if I said yes or no, quite frankly, because
32 I think there's a broad range of experience and
33 capacity within the participants within the IHPC.
34 I mean, that said, there are also the main job, I
35 think, from the technical perspective is to
36 provide an interpretation of biological processes,
37 or data and information that exist, and to provide
38 that information or that interpretation on some
39 sort of logical sensible basis, so that we can
40 understand that in common everyday terms, so to
41 speak. And I think that's an important function
42 to perform. My sense of this is that within the
43 IHPC and other process like that, that not
44 everybody has that ability to either hear and make
45 that translation or interpretation, and I think
46 that's an important job of the technical people to
47 provide that interpretation service.

1 Q Right. But those comments, your comments just
2 now, are with the backdrop of evidence that you
3 gave previous days of some concerns that you have
4 about the process, and in particular you spoke
5 about fatigue, and I am happy to lead you to the
6 transcript if you wish to be reminded. You spoke
7 about diminishing resources, financial resources
8 being withdrawn. You are concerned, are you not,
9 about the process remaining valid and effective in
10 the context of the concerns that you have
11 previously testified about; is that not correct?

12 MR. SAITO: Well, I am concerned on behalf of or
13 representing, perhaps, the individuals that are
14 participating in these processes. It isn't just
15 one process. I don't know if there is evidence to
16 suggest how many processes there are, but one
17 merely kind of needs to look at and examine the
18 number of meetings, pre-season planning meetings
19 that the participants in the Integrated Harvest
20 Planning Committee process are expected to
21 participate in, and to maintain that level of
22 familiarity and competency, so to speak, or dare I
23 say with respect to, you know, the large number of
24 issues, complex issues that need to be maintained,
25 that the Department of Fisheries is looking for
26 advice on, so they can develop a sound, robust
27 fishing plan. Yeah, it's really hard work.

28 I mean, I've been in this business, or had
29 been in this business for over 35 years, and I,
30 too, have a very difficult time kind of keeping up
31 on all the complex issues. So, yeah, meeting
32 fatigue and participation fatigue is a very real
33 issue to make sure that everybody, all the
34 processes are well serviced by well-funded and
35 properly equipped advice. Yes, that's a tall
36 order.

37 Q Your remarks are of importance to my clients in
38 light of the fact that they will be testifying
39 during the Commercial Fisheries section of this
40 Inquiry on these very questions of the demands
41 that are put upon them through all these
42 consultative processes. So that is why I have
43 asked you for your comments.

44 The next thing to ask you is this. My
45 clients instruct me that in respect to, for
46 example, the Integrated Harvest Planning
47 Committee, that where issues arise where no

1 consensus is achieved, that these issues are just
2 swept off the table. In other words, they end up
3 without any resolution because a consensus has not
4 been reached. Do you generally agree from your
5 observations, both of you, that that appears to be
6 unfortunately the modus operandi of the beast,
7 that it obviously cannot resolve matters where
8 there are interests colliding, and where consensus
9 cannot be reached?

10 DR. KRISTIANSOON: Well, certainly, I guess from my
11 perspective, this was a new experiment by the
12 Department, the creation of a consensus-based
13 decision-making forum, and obviously then where
14 there is no consensus, the question is left as to
15 how the Department will act. My view of it
16 frankly has been that there haven't been many
17 occasions upon which there has been attempt to
18 find a consensus, rather that the value of the
19 Integrated Harvest Planning Committee has been
20 that it allows each of the sectors to flag and
21 discuss the issues which are important to them, to
22 inform the Department as to what those issues are,
23 and to elicit comment from their colleagues or
24 opponents or others, however you wish to view it,
25 and in that context the Department receives
26 information and advice from the sectors, and then
27 of course it has to make a decision.

28 I think it would be unrealistic to think that
29 in the crafting of fishing plans in British
30 Columbia that indeed you could do that by
31 consensus, because the reality is that the issues
32 that are often zero-sum games, in which one person
33 wins and the other, then the other loses, and, you
34 know, it's not a simple process.

35 Q Yes. Mr. Saito, anything to say in this regard?

36 MR. SAITO: Part of my problem I guess, or the
37 observation I guess I'd make in responding to your
38 question, sir, is that I don't know precisely what
39 happens to these sorts of issues when consensus is
40 not reached. Quite frankly, I'm not entirely sure
41 what happens when consensus is reached, because
42 there have been instances where consensus was
43 reached within the Integrated Harvest Planning
44 Committee process, and to be absolutely candid, I
45 don't know what happened to that advice with
46 respect to did it reach the Minister's desk or the
47 ultimate decision-maker's desk for resolution, and

1 if so, how was that treated.

2 So the larger question I guess I'd have is
3 that while there are agenda items within the
4 Integrated Harvest Planning Committee process, I
5 think topics are discussed, from time to time
6 consensus is reached, from time to time consensus
7 is not reached, but what happens to that after
8 that point is not that transparent.

9 Q Well, in fact, Dr. Kristianson, we do know that
10 when consensus is reached it doesn't necessarily
11 get acted upon as referenced to your testimony of
12 last day, wherein consensus was reached on a
13 recommendation to the DFO for the waiver of
14 licence fees during the rough period of, I
15 believe, approximately '07 to '09, and that never
16 got acted upon. Is that not an example where
17 consensus was reached and yet not acted upon?

18 DR. KRISTIANSON: Yes, exactly. And indeed I think
19 that one of the more charming notions that has
20 been exercised by people in the Department of
21 Fisheries and Oceans in recent years is the notion
22 that somehow consensus is going to make things
23 easier. That, you know, if only all of those
24 interests would reach consensus, then it would be
25 easier for the politicians to make a decision.
26 And frankly, I think that the evidence suggests
27 that's simply not true, and that this one of
28 licence stuff is an example.

29 If I could use an example outside the
30 strictly the salmon area, the Department
31 instituted a process two years ago called the
32 Gordon process, under a consultant in Victoria, on
33 halibut allocation. A consensus was reached by
34 commercial fishermen, recreational fishermen,
35 First Nations, the Province, and it was rejected
36 in Ottawa, and the reason of course was obvious,
37 it cost money and the government decided that it
38 didn't have any money. But the notion that
39 reaching a consensus decision is going to make
40 things easier, I think is frankly a little bit
41 naïve.

42 Q Thank you. I want to focus now a little bit on
43 the in-season decision-making. We certainly have
44 learned that there is not a structured process for
45 DFO to pursue with interest groups or stakeholders
46 when making in-season decisions. Am I accurate in
47 at least saying that?

1 DR. KRISTIANSO: Yes, I believe that's accurate.

2 Q Yes. Now, I may be the only one perplexed with
3 this in this room, so please forgive me. But I am
4 not quite understanding to what extent DFO
5 believes that they are obligated to consult with
6 stakeholders when making in-season decisions.
7 Now, neither of you are with DFO at the present
8 time. Do you have your own perspective as
9 stakeholders, do you expect as a stakeholder that
10 when decisions are being made in-season there is
11 some form of consultative process?

12 DR. KRISTIANSO: Well, that certainly is the wish and
13 hope of the Sport Fishing Advisory Board, and I
14 think the evidence is that that is the way the
15 Department tries to operate. I mean, there are
16 active in-season consultations take place in
17 Northern British Columbia with respect to the
18 fisheries in that area, and in Southern British
19 Columbia during the fishing season.

20 Does consultation always take place? No,
21 and, you know, the most recent Sport Fishing
22 Advisory Board meeting this last weekend, one of
23 the issues on the table were some decisions that
24 were made by Enforcement staff during the season
25 in an attempt to change the harvesting rule with
26 respect to what size hook you could use, and where
27 a decision was made without local consultation,
28 which immediately led, of course, to friction.
29 And indeed the decision of the meeting was that
30 the Department wants to include representatives of
31 the Advisory Board with its internal committee,
32 which is looking at the range of issues, in order
33 to ensure that that problem doesn't recur next
34 season.

35 So, I mean, my view is that the Department
36 does try to consult with our sector, at least, in-
37 season. I can't speak to what goes on with
38 respect to the commercial sector.

39 Q And not to the prejudice of having to make
40 expeditious decisions in-season. You feel that
41 the level of consultation is appropriate and it
42 has not in any way prejudiced the need of DFO to
43 sometimes turn on a coin.

44 DR. KRISTIANSO: No. And I think again, I suspect the
45 situation is different for the commercial sector.
46 The commercial sector is dealing with harvesters
47 with much higher fishing power, who are,

1 particularly in the case of sockeye, accessing
2 stocks that are moving through the system very
3 quickly and where decisions are of great urgency
4 in a particular moment. The recreational sector
5 by and large is not subject to the same set of
6 pressures.

7 Q Yes. And I believe this Commission is likely to
8 hear evidence from my clients in that regard.

9 Mr. Saito, do you have any remarks to make,
10 and I invite you to make your remarks, not only in
11 the context of a current member of the Ministry of
12 the Environment provincially, but also from your
13 experience previously with DFO.

14 MR. SAITO: Well, I think my comments probably would be
15 the same, regardless, sir. But the observation I
16 guess that I have is not too dissimilar to Dr.
17 Kristianson's, and in that in the sense that the
18 Department of Fisheries has done a remarkable job
19 of following through or honouring their commitment
20 to consult on a bilateral basis with the interest
21 groups or sectors. I think they do as good a job
22 as resources and time permits. I think that in-
23 season, I don't envy the role of some of my former
24 colleagues, in that their days are not 37-and-a-
25 half hours a week. It's many more hours a week
26 than that, simply because the technical issues, as
27 well as consulting and informing, keeping the
28 client groups that they are charged with
29 responsibility of keeping informed, maintaining
30 that process.

31 There is also the Fraser River Panel process
32 is a model where not only is that bilateral
33 relationship maintained, but there is also that
34 special relationship with all of the interests
35 that are at least represented within the Fraser
36 River Panel, where all the interests are around
37 one table within the Canadian section, that have
38 the ability to hear the issues that are being
39 presented to all the groups together, and perhaps
40 some opportunity to resolve some of those issues
41 and potential differences that might arise, and to
42 give each other mutual support. And that doesn't
43 exist - sorry, to put it in the positive - that is
44 a special process for Fraser River sockeye that
45 quite frankly other processes could benefit from
46 in the sense that there are more than one group at
47 any one time that are being informed of, briefed

- 1 on, and perhaps consulted with, regarding
2 opportunities that might arise, or issues that
3 might arise in-season.
- 4 Q Thank you. We have heard evidence that for in-
5 season changes to the Integrated Harvest
6 Management Plan, I believe it's got to go to the
7 Minister in Ottawa; is that not correct, Mr.
8 Saito, or Dr. Kristianson?
- 9 MR. SAITO: It's my understanding that that is indeed
10 the case, or if a situation is not described in
11 the IFMP, Integrated Fisheries Management Plan,
12 then that is not an option that is easily
13 considered by Department of Fisheries managers.
- 14 Q Assuming Dr. Kristianson agrees with you, do
15 either of you know of any obstacles that DFO has
16 encountered in terms of changing the Integrated
17 Fishery Management Plan because they couldn't get
18 the Ministerial approval in Ottawa. Do you know
19 of any delays in decision-making because of what
20 I'll call bureaucratic obstacles?
- 21 DR. KRISTIANSON: I am not aware of any in the context
22 of the recreational fishery, and I think that's
23 probably because the integrated plan pretty much
24 describes all of the range of possibilities that
25 are there. So I'm frankly not aware of any case
26 where there was a requirement to seek Ministerial
27 approval for a change in the recreational plan.
- 28 Q In the recreational plan.
- 29 DR. KRISTIANSON: Yes.
- 30 Q But you are aware, are you not, that there was a
31 Ministerial approval in terms of changing the
32 plans, 2010, in the commercial fishery?
- 33 DR. KRISTIANSON: Yes, I can't speak with any expertise
34 at all.
- 35 Q All right, fair enough. Mr. Saito, do you have
36 anything to add?
- 37 MR. SAITO: Well, I can't authoritatively state that
38 I've seen that in action, and particularly in
39 2010, and that my participation is a step or two
40 removed from that.
- 41 Q Yes. Mr. Saito, in your testimony on either the
42 1st or the 3rd of this month, you spoke about the
43 concept of an arbitration system in resolving some
44 disputes, and I believe your suggestion or
45 testimony related to in-season disputes; is that
46 not correct?
- 47 MR. SAITO: That's correct.

1 Q Right. Because that's on record, I just want to
2 explore that a bit more with you, because frankly
3 I'm a little sceptical that it would work, and I'm
4 interested in your responses. First of all, you
5 do recognize that a lot of these in-season
6 disputes require very expeditious decision-making;
7 is that not correct?

8 MR. SAITO: That's absolutely correct.

9 Q And that being the case, in floating out the idea
10 to the Commission of an arbitration, I very much
11 appreciate you are trying to be helpful to
12 everybody, and at least throw new ideas out on the
13 floor. Do you truly believe that an arbitration
14 system could be struck and could be hearing these
15 issues as expeditiously as the decisions would
16 call for?

17 MR. SAITO: In reality, sir, it already exists, it
18 simply is not formalized, and it occurs on a
19 bilateral basis. In-season if issues or
20 respectful differences of opinion, or not
21 respectful differences of opinion were to arise,
22 the lobbying or the phone calls or the process
23 basically is to approach a fisheries manager and
24 to seek satisfaction. If that satisfaction is not
25 reached, then you escalate the issue to the next
26 level, onto the next level to deal with such a
27 point where at some point a senior official within
28 the Department of Fisheries has to take the
29 pleadings, or the lobbying, or what have you, from
30 the individual parties and then make a decision.

31 Q Right.

32 MR. SAITO: And the what I was recommending or
33 suggesting or contemplating that this process
34 contemplate, is to actually recognize that this
35 does take place and to put some structure to it.

36 Q And structure would include the appointment maybe
37 of a standing arbitrator?

38 MR. SAITO: I will confess that I have not developed
39 that concept to the level of detail and finality
40 because that if this concept has merit, you know,
41 it would require a fair degree of thought.
42 Largely because, I think it is not going to be
43 something that is going to be there is one or two
44 or three or ten individuals that can consistently
45 represent a level of competence and expertise and
46 wisdom on every one of these issues. It's more of
47 a description of a process than it is to identify

1 exactly how that model should work.

2 Q Thank you. Mr. Saito, as we all know, you were an
3 active participant in the Fraser River Panel while
4 you were a member of DFO, and there is a document
5 before us which you wrote in 2002 to the Chairs of
6 the Pacific Salmon Commission, expressing concern
7 of the Panel that DFO was not carrying out and
8 fulfilling its obligations on stock enumeration to
9 the level that you felt the Government of Canada
10 was obligated under the Treaty. This document is
11 already before us. You're familiar with what I'm
12 talking about?

13 MR. SAITO: I am not familiar with the exact document.
14 I am familiar, I am aware of that I did
15 participate or did author a letter of that nature
16 sometime, but I'm not familiar with the exact
17 contents.

18 Q Okay. Well, in fairness --

19 MR. SAITO: I've not been warned of that, so to speak.

20 Q In fairness, then, that document should be put
21 forward. I'm sorry, I have the exhibit number
22 somewhere in my notes. Can I be assisted by the
23 Clerk. This is -- it is now in front of us, and
24 it is Exhibit number 386. That actually is not
25 the letter. Yes, carry down to the bottom,
26 please, Mr. Lunn.

27 Yes. You will see your signature there. If
28 you wish to read it first, and even before reading
29 it so you appreciate where I'm going with this,
30 I'm wanting to elicit from you after having
31 expressed this concern, you remained with the
32 Fraser River Panel until 2005; do I have that
33 correctly?

34 MR. SAITO: The fall of 2004.

35 Q The end of 2004. After you've read this letter,
36 the question I will be asking you is are you aware
37 subsequent to your concern as expressed in this
38 letter of continuing concerns regarding stock
39 enumeration issues with DFO and whether it was
40 carrying out its responsibilities. So why don't I
41 allow you the time to briefly read that letter.

42 MR. SAITO: Okay.

43 Q Thank you. Having read that letter, can I assume
44 that it's correct to suggest that you were
45 obviously expressing concern of the Fraser River
46 Panel that DFO at that time of writing that letter
47 was not carrying out sufficiently the stock

1 enumeration program that should have been carried
2 out in compliance with the Treaty?

3 MR. SAITO: Yes. I was fulfilling my role as the
4 Canadian Chair of the Fraser River Panel, that
5 there was a bilateral agreement or consensus that
6 the emphasis on stock assessment was not reaching
7 expectations, yes.

8 Q Yes. Do you have evidence to give to this inquiry
9 whether that has been a continuing problem, from
10 your perspective?

11 MR. SAITO: I'm sorry. Do I have evidence today?

12 Q What is your belief whether this problem has
13 continued as a problem in terms of DFO not meeting
14 its what I'll call treaty obligations.

15 MR. SAITO: It's a difficult question to answer, sir,
16 because the -- no, I can't speak for what the
17 Department has done specifically from the time I
18 resigned or retired from the Department of
19 Fisheries. But I do know that in response to a
20 reduction on the level of intensity, for example,
21 on pink salmon enumeration, that the Department of
22 Fisheries have developed a more responsive in-
23 season approach.

24 Q More what?

25 MR. SAITO: In-season approach. The Pacific Salmon
26 Commission staff attached to the Fraser River
27 Panel, and the Fraser River Panel have taken and
28 placed more emphasis on having larger resources
29 directed at test fishing and other assessment
30 methodology, so they can get an assessment of what
31 the run size is or returning abundance is of
32 Fraser River pink salmon. So they've made that
33 adaptation. Is it sufficient? I don't think I'm
34 qualified, perhaps, to make that assessment. But
35 traditionally, prior to 2002 or in those days when
36 I was an employee of both the International
37 Pacific Salmon Fisheries Commission as well as the
38 Department of Fisheries, there was a fair
39 dependence upon assessing the number of spawners,
40 or adults that spawn on the spawning grounds,
41 hence the number of juveniles that emerge from the
42 gravel in the spring, to give some sort of insight
43 or forecast of the numbers of pink salmon that
44 might be returning next year. When those programs
45 were basically reduced or cut back, that shift,
46 that adaptation took place.

47 I would suggest that perhaps in other

1 instances, as well, the emphasis has been placed
2 on in-season assessment, and I think that the
3 Fraser River Panel has made that adjustment. Is
4 it adequate? Is it appropriate? I don't think
5 I'm the person that should be responding to that.

6 Q Were you comfortable with the decision of DFO, I
7 believe, in 2004 to change the threshold for high-
8 precision enumeration at the spawning grounds from
9 a 25,000 figure to 75,000 fish?

10 MR. SAITO: I'm struggling, because these are not
11 questions I was prepared for. I was focusing --

12 Q That's unfortunately the nature of this process
13 sometimes.

14 MR. SAITO: All right, that's fair enough.

15 Q Thank you.

16 MR. SAITO: I'm presuming that is fine. When I was the
17 Chair of the Fraser River Panel and that
18 adjustment was made, it was in recognition and
19 acknowledgement that with the diminishing
20 resources and the competition for those same stock
21 resources for species other than, and populations
22 of fish other than Fraser River sockeye, that some
23 cuts or some adjustments needed to be made. I
24 recall participating in those discussions with my
25 colleagues in the Department of Fisheries, saying
26 is this a reasonable thing to do? And given the
27 apparent rapid growth or expansion of sockeye
28 populations throughout the watershed as a result
29 of the Rebuilding Program, or the Escapement
30 Management Program, that it was not unreasonable
31 to contemplate then that many populations that
32 were previously languishing at levels less than
33 25,000 were all of a sudden going to be returning
34 in abundances or escapements in abundances in the
35 75,000 range, and so therefore the tithing
36 programs, the intensive enumeration programs could
37 reasonably respond to that.

38 Was I satisfied with that? Well, on balance,
39 as a manager and working with colleagues within
40 the Department of Fisheries that also needed to
41 conduct critical stock assessment programs for
42 chinook or coho, or other populations, it was
43 probably a reasonable accommodation. The better
44 answer perhaps, or the better solution would be a
45 general increase so that all programs could
46 respond to what was considered the minimal or
47 acceptable levels. But you need to reach some

1 balance sometimes.

2 Q But you recognized that the policy change
3 obviously diminishes the quality of the data that
4 is generated in terms of stock enumeration,
5 obviously?

6 MR. SAITO: Yes.

7 MR. ROSENBLOOM: Thank you. I have no further
8 questions.

9 MS. BAKER: Mr. Commissioner, Ms. Gaertner was the
10 first examiner and after she completed her
11 examination some new documents were put to the
12 witnesses, which she hasn't had an opportunity to
13 raise with the witnesses, so she'd like to come
14 back and deal with that.

15 MS. GAERTNER: Good morning, Mr. Commissioner, Brenda
16 Gaertner for the First Nations Coalition, and with
17 me Leah Pence. I just have a couple of questions
18 on the ISDF, but before I do that, and with your
19 leave, I have one question around the IHPC that
20 Ms. Pence did not address with this panel when she
21 finished with Pat Matthew, which we are going to
22 pose to the panel this afternoon, and it just
23 might be useful to hear from other representatives
24 on the same committee at the same time for you.
25 So I'm just going to ask one question on the IHPC
26 and then turn to the ISDF.

27

28 CROSS-EXAMINATION BY MS. GAERTNER:

29

30 Q Now, IHPC, Integrated Harvest Planning Committee,
31 Mr. Commissioner, and the makeup of that committee
32 for the South Coast is slightly different than the
33 North Coast. The makeup for the South Coast is
34 six for the Commercial Sector Advisory Board, and
35 three from the Sports Fishing and two from the
36 Marine Conservation. Presently there is four
37 positions for First Nations. And B.C., as I
38 understand, sits as *ex officio*. Is that just as
39 an observer, Mr. Saito, is that your role there?

40 MR. SAITO: It is, yes, it is largely an observer role,
41 but functionally there is no decision-making
42 capacity, *per se*, on the part of the Province.

43 Q All right. And, Mr. Kristianson, this panel, or
44 the IHPC is an advisory board, it doesn't provide
45 decisions to the Department, and as I understand
46 it, is attempting to use a consensus approach,
47 however struggling as that may be, and however

1 challenging that may be, it's consensus-based
2 towards advice given to the Ministry, or to the
3 Department. When looking at the challenges
4 associated with First Nations representation
5 there, and Mr. Commissioner has heard from Pat
6 Matthew on that and all of you already, so we
7 don't need to go over that part again. But
8 perhaps more looking forward into it, assuming
9 there was a functional Tier 1 and Tier 2 process,
10 so that bilateral process for First Nations and
11 DFO was actually functional, and we know we have
12 to make that assumption, because that's not in
13 place yet, would it be beneficial for the First
14 Nations representative numbers there to become
15 much more flexible and increase the number to get
16 a broader range of interests and concerns. Four
17 in relation to the numbers that are already there,
18 doesn't, from my perspective, create a balance
19 there, and even for the purposes of consensus. So
20 would it make sense perhaps to take a much broader
21 perspective on the types of geographical areas and
22 gear types that First Nations also work with to
23 provide a more flexible participation? I'd like
24 your comments on that from both you, Mr.
25 Kristianson, and then Mr. Saito.

26 DR. KRISTIANSON: Well, certainly I'm happy to comment
27 on that. I think that the numbers for each of the
28 participating groups ought to be sufficient to
29 ensure that that group is adequately and
30 effectively represented. And in the case, for
31 example, of the larger number for the commercial
32 sector, when we were consulted about that, the
33 recreational sector, we took the position that we
34 would not object to them having more
35 representatives than us, because it wasn't a
36 voting forum. There have been other decision-
37 making bodies where it was done by vote, and
38 obviously then you don't want to be in a room
39 where you are permanently outvoted. But, no, I
40 would accept that.

41 I mean, as I think I said in my direct
42 testimony, this is a difficult problem for First
43 Nations to deal with and for the Department then
44 to deal with. My hope is they can find a way to
45 do that and I think our sector would not object on
46 the basis of numbers if it was felt by First
47 Nations that they needed more than four.

1 I would observe, though, that even with four
2 seats they're not always filled, and secondly
3 there has been, I think, at the Committee a sense
4 of looking the other way in terms of
5 representation. And so there have been people
6 there who actually, I gather, have not been
7 appointed, but who arrive at the meeting, sit at
8 the table, speak to issues, and since it's
9 consensus there's no issue, reason to vote, and as
10 far as I'm aware no one's presence or right to
11 participate has ever been challenged at an IHPC
12 meeting.

13 Q Thank you. Mr. Saito.

14 MR. SAITO: First of all, I would like to see the Terms
15 of Reference for the IHPC, because I'm a little
16 confused with respect to First Nations
17 participation --

18 Q Exhibit 342.

19 MR. SAITO: -- being limited or specified. Because as
20 far as I can recall, at a recent South Coast
21 meeting...

22 Q Page 3. Can you see that, Mr. Saito?

23 MR. SAITO: That's interesting, because I know that at
24 recent meetings there have been typically, if you
25 want to call it that, Mr. Marcel Shepert, Mr. Pat
26 Matthew, Mr. Don Hall, Mr. Errol Sam. I believe
27 Johnstone Strait First Nations have also been
28 represented at these meetings, so I'd --

29 Q But that's a combination of the South Coast and
30 the North Coast, then, are we talking about that,
31 or is that just the North?

32 MR. SAITO: No, no.

33 Q That's just the South?

34 MR. SAITO: Yes.

35 Q Okay.

36 MR. SAITO: And there was a time and a place where
37 Chief Robert Hope, for example, representing Yale
38 Band was participating. So I think that the
39 participation, as Dr. Kristianson might have best
40 described, is that the IHPC process takes full
41 advantage of opportunistic participation on the
42 part of First Nations, I think.

43 Q So participation at this point, I mean, we've
44 talked already and I don't want to go back into
45 this, the challenges associated with mandated
46 representation. But you're saying that if people
47 show up for meetings, it's flexible and they're

1 welcome to be there, that you don't hit those
2 numbers and then people leave. You're happy to
3 have them in that way. But if we were talking
4 about the structuring these, improving the
5 structures going forward, and as I said, if you
6 assumed a Tier 1 and Tier 2 process was in place,
7 and functional, which is an assumption that we can
8 make right now, it's not true, then with that in
9 place, and we were trying to improve the value of
10 the IHPC going forward, if we were looking at
11 trying to create consensus amongst the groups in a
12 more functional way, getting rid of the numbers of
13 the meetings and doing all those, you would
14 welcome a higher participation in numbers by First
15 Nations. Is that your evidence?

16 MR. SAITO: From my personal perspective, the --

17 Q From your perspective as --

18 MR. SAITO: Yes.

19 Q -- the observer on behalf of the Province.

20 MR. SAITO: As the observer on behalf of the Province,
21 the issue and the interest is not the numbers of
22 people, but the sort of and the type of
23 representation that does actually take place at
24 these meetings.

25 Q Thank you very much. Those are all the questions
26 I had on the IHPC for now.

27 Just, Mr. Saito, I just wanted a couple of
28 questions with you on the ISDF, and Mr.
29 Commissioner, that's the Integrated Salmon
30 Dialogue Forum that has been in place, I think
31 roughly since 2006'ish, or some of its initial
32 times and its being facilitated. And I just
33 wanted to be clear, I was trying to find this in
34 the terms of reference, and the documents that
35 have been filed so far, and this hasn't been -- I
36 understood, Mr. Saito, as you understand First
37 Nations participation at the beginning of this
38 process and going into it, have included an
39 articulation of concerns that the -- it's another
40 multi-stakeholder process before the bilateral
41 processes between First Nations and DFO are
42 functional, and in place. And that they had some
43 concerns associated with coming to a multi-
44 stakeholder group to negotiate their rights before
45 having properly had the dialogue at a bilateral
46 level. As I understand it, and I do believe
47 Brenda McCorquodale will be coming to give

1 evidence later in this hearing, and I wanted you
2 to have an opportunity, as I understand it, there
3 was some support at the beginning of the ISDF
4 process for acknowledging that this bilateral
5 process between First Nations and DFO was a
6 necessary part of the governance or decision-
7 making, and then that was one of the premises, or
8 one of the principles, maybe. I'm not sure it's
9 flexible language, I think, that we might need to
10 use here in the ISDF process. Could you comment
11 on that?

12 MR. SAITO: Well, my first reaction to your question is
13 that I think this process would be much better
14 served by speaking to the authors rather than to
15 someone who's interpreting the document, and I'll
16 simply leave it at that. But I think that the
17 Integrated Salmon Dialogue Forum clearly
18 recognized the value and the importance of
19 participation by all the legitimate stakeholders,
20 and interests that have some ability to provide
21 some sort of positive developments in this area
22 here. And First Nations are absolutely key and
23 critical in ensuring that their participation in
24 this process was not only a comfortable one, but
25 one that ensured that a lot of the concerns that
26 they presently have, had then and continue to
27 have, are not going to be affected or jeopardized
28 by their participation in ISDF. I believe that
29 the authors of the process, Mr. Sigurdson and
30 Stuart, made every attempt to ensure that comfort
31 was there.

32 Q Sorry, I just need to be a little bit more precise
33 on this. Thank you for that, but their
34 participation was welcomed. But more specifically
35 their concern around these multi-stakeholder
36 processes, their -- you know, their interest
37 perhaps of course in them, but their concern that
38 they were happening prior to a clear bilateral
39 process with the Department between First Nations
40 and directly and that they wanted this process in
41 some ways to recognize that that was going to be
42 an important component of moving forward, and that
43 that was something this process, the ISDF process,
44 could actually work with, was something that you
45 could encourage and you could actually work with,
46 and that it would be valuable to have.

47 MR. SAITO: I was busy shuffling around to see if I

1 could actually find that framework document that I
2 referred to or was introduced, and there is a
3 passage --
4 Q 393.
5 MR. SAITO: -- specifically in there that I believe
6 that I would like to draw your attention to. But
7 I don't have it.
8 Q That's great. It's Exhibit 393, and I'm happy to
9 take that to you. I'm sorry, I could actually --
10 would you like to have a hardcopy of the document?
11 MR. SAITO: No, that's not it.
12 Q Would that be helpful to you?
13 MR. SAITO: Yes, but that's not the document.
14 Q Exhibit 392. Is this the one you were looking
15 for, Mr. Saito?
16 MR. SAITO: This is.
17 Q And would you like Mr. Lunn to scroll down. It
18 may be around page 7.
19 MR. SAITO: I think it was in the area of page 7, but
20 you know, perhaps I can turn the question around
21 to you and say is there something here that
22 suggests that the First Nations interest and needs
23 will not be protected?
24 Q No, not at all, Mr. Saito.
25 MR. SAITO: Okay.
26 Q And that's not the question, or even the place
27 from which I'm asking the question.
28 MR. SAITO: All right.
29 Q Really it's more one of the challenges in
30 governance or decision-making structures right
31 now, as you are aware, is having enough time and
32 resources to do everything that's necessary to be
33 done.
34 MR. SAITO: Yes.
35 Q And similarly another challenge, I think, is that
36 we all dream of the government that we likely
37 can't afford, which is a complement to that. But
38 one of the constitutional obligations, as you're
39 aware, that the federal government has is as it
40 relates to section 35 rights, and the
41 Constitutional obligations with First Nations, and
42 that that's an important part of the dialogue and
43 the movement forward in governance. And First
44 Nations, when called upon to attend to these
45 multi-stakeholder groups often, and I believe with
46 the ISDF, raised the concern that as a complement
47 to these multi-stakeholders, there must be a

1 bilateral functional, what I call a Tier 1/Tier 2,
2 and --

3 MR. SAITO: Yes.

4 Q -- you're familiar with that process, that clearly
5 allows them to have the government-to-government
6 relationship with the Federal Crown that they have
7 in law and needs to be exercised in practice.

8 MR. SAITO: Yes.

9 Q And so what I'm asking you is to your knowledge -
10 and I don't believe this is in the documents, Mr.
11 Saito and that's why I'm asking you orally on
12 this; I don't believe that it's in the documents -
13 but to our knowledge, it's our understanding that
14 the ISDF is supportive of ensuring that that
15 bilateral process is in place in order to make
16 multi-stakeholder processes more functional; is
17 that your working knowledge?

18 MR. SAITO: That is my knowledge. I still recommend
19 that, you know, some opportunity to address that
20 question directly to the authors is probably of
21 value, as well.

22 Q Yes, or other participants that have been
23 involved. I'm happy to do that. I just wanted to
24 give you the opportunity to speak on it as we move
25 forward with this.

26 And the two other topics on the ISDF that I
27 wanted to raise, one is from a First Nations
28 perspective, it's not clear either in the process
29 itself or in how it's been implemented what role
30 if any does the ISDF have in present decision-
31 making processes. Are they advisory, or are they
32 -- how is their work incorporated into the actual
33 decision-making process that is presently in place
34 for Fraser River sockeye salmon?

35 MR. SAITO: I'm sorry, you're asking that question of
36 me?

37 Q Yes.

38 MR. SAITO: Thank you. Okay. Well, in my
39 understanding, the Integrated Salmon Dialogue
40 Forum does not have a direct role in the pre-
41 season planning process, or in-season. But rather
42 that they have provided some advice, for example,
43 in the form of a document speaking about and
44 referencing the importance of catch monitoring,
45 establishing catch monitoring standards, fishery
46 monitoring and catch reporting standards that
47 gather the support of the commercial, the

1 recreational and First Nations fisheries, and also
2 describes the fishery monitoring and catch
3 reporting practices in a manner that enables
4 everyone to have a good, a thorough and supportive
5 understanding of each other's fishery monitoring
6 and catch reporting practices. That is one form
7 that where the Monitoring and Compliance Panel of
8 the ISDF has performed and provided that level of
9 service to the salmon fishery.

10 Q Thank you. I understand Mr. Sakich is going to
11 speak to us this afternoon just on some of that
12 initiative, and so we'll pick that up with him
13 later.

14 Just finally, do you know how this ISDF is
15 funded? Who is funding it and who is paying for
16 the facilitators, and from what budget is it
17 coming from. Do you know any of that kind of
18 information?

19 MR. SAITO: No, that is probably a question that is
20 more appropriately asked of the Department of
21 Fisheries.

22 Q Thank you. Those are my questions.

23 DR. KRISTIANSON: If I may, it is my understanding that
24 the funding has come through what is called PICFI,
25 because I know that only because when I was
26 directed to, that's the source that was cited to
27 me when I asked where would I send my expense
28 claim for participation.

29 Q And you're going to hear lots about PICFI as we go
30 forward, Mr. Commissioner. So I'll leave it at
31 that, but I think it is important for you to know
32 that now, and that was the purpose for the
33 question. It's useful to know that this process
34 is being funded out of the Pacific Integrated
35 Commercial Fishing Initiative -- oh, I've made it
36 right through that, an acronym. That's very good.
37 And First Nations, of course, will have much to
38 say about that to you and during the Aboriginal
39 Panel.

40 DR. KRISTIANSON: I also, and I realize you didn't ask
41 the question of me, but as someone who has
42 participated in --

43 Q Oh, I'm sorry, I wasn't aware that you were a
44 participant.

45 DR. KRISTIANSON: -- the ISDF from the beginning.

46 Q I'm sorry.

47 DR. KRISTIANSON: I wanted to address the key question

1 you were asking of Wayne Saito, and that is, it
2 has been my experience that this question of the
3 relationship between what ISDF is trying to
4 accomplish and the first and second tier work of
5 First Nations, has been, you know, explicitly
6 talked about within the ISDF and recognized. I
7 can personally recall discussions of this by
8 Brenda McCorquodale, by Mark Duiven and by others,
9 sometimes with differences between them as to how
10 those things should be worked out.

11 But I think that while I have, as I was in my
12 testimony not perhaps as positive in my view of
13 the ISDF as is Wayne, I think that this is one
14 area where the ISDF has made every effort to be
15 respectful of those issues, and to try and ensure
16 that the discussions that were taking place
17 between us as interests about whether it was catch
18 monitoring or the governance process were only
19 done in the context of recognizing that First
20 Nations have constitutional rights, which they
21 need to pursue in their own way in first and
22 second tier, and that we should not interfere with
23 that, or make it more difficult.

24 Q And in fact your process could be improved if
25 there was a functional bilateral process.

26 DR. KRISTIANSO: Absolutely.

27 MS. GAERTNER: Thank you, Mr. Commissioner. Those are
28 my questions.

29 MS. BAKER: Thank you, Mr. Commissioner. I have just
30 one re-examination point, and then I think we can
31 thank this panel for their time.

32
33 RE-EXAMINATION BY MS. BAKER:

34
35 Q Mr. Saito, Mr. Rosenbloom took you to a document,
36 Exhibit 386, and I just need to go back to that
37 for a moment. And he took you to the letter that
38 you had signed with the U.S. Chair. And when he
39 asked you questions about funding for stock
40 assessment, in your responses you referred to
41 changes that were made to pink salmon enumeration.
42 And I just wanted to identify at the first page of
43 this letter, there's - oh, no, sorry - five bullet
44 points set out, and the first bullet sets out
45 concerns about summer run sockeye, upriver
46 escapement assessment programs. The next bullet
47 talks about elimination of sockeye escapement

1 programs. The third one is pink salmon escapement
2 programs, and the fourth one is about pink salmon,
3 and the final bullet is again about Fraser River
4 sockeye programs. So in your responses you seemed
5 to focus only on the changes that were made to
6 pink salmon escapement. Did the Fraser River
7 Panel in your time as Canadian Chair have concerns
8 about Fraser River sockeye enumeration resourcing
9 as set out in this letter?

10 MR. SAITO: Yes, they did. And I apologize if I
11 misdirected my response to focus on pink salmon.
12 I was using pink salmon to illustrate the issues
13 and that, yes, there was a reduction. But that
14 adaptation, *per se*, was taking place with respect
15 to sockeye as well as to pink salmon.

16 Q All right. Well, did the concerns that are
17 identified in this letter, which -- can you show
18 me the date, Mr. Lunn, I think it's 2003, but I'm
19 not sure. Yes, 2003. The concerns expressed in
20 this letter, first of all, were they addressed
21 vis-à-vis Fraser River sockeye?

22 MR. SAITO: When you ask were they addressed, your
23 suggestion was funding restored?

24 Q Yes.

25 MR. SAITO: No, funding was not restored, to the best
26 of my knowledge, and I do not know what happened
27 after I retired from the Department.

28 Q And so the concerns that you outlined here in
29 2003, were they -- were those concerns still alive
30 in 2004 when you were still the Canadian Chair of
31 the Panel?

32 MR. SAITO: Yes, they were.

33 MS. BAKER: Okay, thank you. Those are my questions.
34 Mr. Commissioner, I think that is the end of
35 questions for this panel, and maybe we could take
36 the break and come back with the second Decision-
37 Making Panel, and thank you very much for
38 attending.

39 THE COMMISSIONER: I apologize, I'm getting so used to
40 seeing your faces around, I forget to thank you
41 for your attendance. But I do want to sincerely
42 express the appreciation of the Commission for the
43 fact, that as Mr. Rosenbloom pointed out, you have
44 been here more than one day, even though time
45 flies by, we mustn't forget that it's an intrusion
46 into your lives. So thank you very much for
47 taking the time to be here with us and for

1 answering the questions of all of the
2 participants' counsel and the participants. Thank
3 you very much.
4 DR. KRISTIANSO: Thank you. I will be of course back
5 again in March, so you haven't got rid of me yet.
6 THE COMMISSIONER: Thank you for the reminder.
7 THE REGISTRAR: The hearing will now recess for 15
8 minutes.

9
10 (PROCEEDINGS ADJOURNED FOR MORNING RECESS)
11 (PROCEEDINGS RECONVENED)

12
13 MS. BAKER: Thank you, Mr. Commissioner. We are
14 starting this morning with a second panel dealing
15 with decision-making processes, consultation
16 processes, and the members of this panel are Mr.
17 Peter Sakich, Mr. Brian Assu and Mr. Jeff Young.
18 You know Mr. Assu, and he remains under oath, but
19 Peter Sakich and Jeff Young do need to be sworn
20 in.

21
22 PETER ANTON SAKICH, affirmed.

23
24 JEFFERY YOUNG, affirmed.

25
26 BRIAN ASSU, recalled.

27
28 THE REGISTRAR: Would you state your name, please?

29 MR. SAKICH: Peter Anton Sakich.

30 MR. YOUNG: Jeffery Young.

31 MS. BAKER: Thank you. Mr. Assu's biography has
32 already been marked as an exhibit in these
33 proceedings. I would like to go through the
34 background of Mr. Sakich and Mr. Young, so I'll
35 start with you, Mr. Sakich.

36
37 EXAMINATION IN CHIEF BY MS. BAKER:

38
39 Q You provided us with a biography and that's at Tab
40 4 of the materials for this panel. This outlines
41 your involvement with fishing-related processes,
42 Mr. Sakich. I'll just run through them with you.
43 Currently you're the co-Chair of the Commercial
44 Salmon Advisory Board?

45 MR. SAKICH: Yes.

46 Q And you've been involved in the Integrated Salmon
47 Dialogue Forum and are currently the chair of the

1 Monitoring and Compliance Panel of that forum?

2 MR. SAKICH: Yes.

3 Q And you've been a member of Integrated Harvest
4 Planning Committee of the IHPC since 2004?

5 MR. SAKICH: Yes.

6 Q You're also the president of the B.C. Wild Harvest
7 Salmon Producers Association -- I'll run through a
8 bunch of these -- and the Area H Harvest
9 Committee? You're a member of the Area H Harvest
10 Committee and president of the Gulf Trollers'
11 Association as stated?

12 MR. SAKICH: That's right.

13 Q And you're a director of the Pacific Coast
14 Fishermens' Mutual Marine Insurance Company and a
15 member of the Harbour Authority Association?

16 MR. SAKICH: Yes.

17 MS. BAKER: Thank you. I'll have that biography
18 marked, please, as the next exhibit.

19 THE REGISTRAR: Exhibit number 422.

20

21 EXHIBIT 422: Biography of Peter Sakich

22

23 MS. BAKER: Thank you.

24 Q Mr. Young, you have a Bachelor of Science in
25 Environmental Science?

26 MR. YOUNG: Yes.

27 Q And a Masters of Science in Forestry from UBC?

28 MR. YOUNG: Correct.

29 Q And you have also done work studying the
30 physiology of migrating salmon and causes of
31 mortality under Scott Hinch?

32 MR. YOUNG: Yes.

33 Q Your biography is at Tab 2 of the materials before
34 you, and that could be pulled up.

35 You've also done work as an aquatic biologist
36 and environmental scientist with Inuvialuit
37 Environmental and Geotechnical Incorporated?

38 MR. YOUNG: Yes.

39 Q And you have been an aquatic biologist with David
40 Suzuki Foundation from 2005 to the present?

41 MR. YOUNG: Yes.

42 Q And you have been the representative for the
43 Marine Conservation Caucus at both the IHPC and
44 the Canadian Caucus of the Fraser River Panel?

45 MR. YOUNG: Yes.

46 Q Your biography is on the screen, or your c.v. is
47 on the screen, and that is the c.v. you provided

1 that sets out the work that we've just reviewed
2 and plus other additional papers and work that
3 you've done in your career.

4 MR. YOUNG: Yes.

5 MS. BAKER: I'll have that marked, please, as the next
6 exhibit.

7 THE REGISTRAR: Exhibit number 423.

8

9 EXHIBIT 423: *Curriculum vitae* of Jeffery
10 Young

11

12 MS. BAKER: All right. My questions are, for the most
13 part, going to be directed to all the panel
14 members, but there may be times where I'm
15 directing to just one person. We've had a set of
16 witnesses already talking about some of these
17 issues. We've heard from Mr. Saito, Gerry
18 Kristianson, and also Pat Matthews. So we do have
19 some familiarity with the processes we're going to
20 be going through with you today, and I'm going to,
21 as a result, try and not go through as much
22 background on some of the formal setting up of the
23 processes and get into your perspectives on how
24 these processes are running, so you can expect
25 that people in the room have heard about these
26 processes already and they have some working
27 knowledge of what we're talking about.

28 Q Mr. Assu, we did hear previously about a
29 recommendation from the Williams Committee that
30 First Nations become fully engaged with the Fraser
31 River Panel and DFO management. Right now, how
32 many First Nation members are on the Fraser River
33 Panel?

34 MR. ASSU: There's two First Nation members on the
35 Fraser River Panel. The only thing I will say
36 just to add to that is I think sometimes there's
37 some confusion around my role on the Fraser River
38 Panel. Even though I am First Nations, I am
39 officially a commercial alternate.

40 Q Okay.

41 MR. ASSU: Originally it was to Larry Wick, and now it
42 is to Chris Ashton.

43 Q Thank you. And with the two First Nations members
44 that are there in that capacity as First Nations
45 members, and of course you're a First Nation
46 person yourself, so you have your own perspectives
47 to bring. But do you think that the current make-

1 up of the Fraser River Panel fully engages First
2 Nations within the Fraser River Panel consultative
3 process?

4 MR. ASSU: As far as fully engaging, I guess it may not
5 go all the way in meeting the needs of all of the
6 different regions for First Nations, but I think,
7 for the most part, as far as the representation is
8 concerned, they have First Nations representatives
9 for the lower and upper river. It's just really
10 we don't have anybody officially from the marine
11 area at the Panel level, either as just simply a
12 member of the Panel or with respect to the
13 Technical Committee.

14 Q Now, I wanted to move to the IHPC process now.
15 The IHPC has been described at length already, and
16 we have looked at the terms of reference of the
17 IHPC, so I'm not asking this question for you to
18 repeat what's in that terms of reference, but it's
19 a bigger question. The question is, from your
20 perspective, what is the purpose of the IHPC?
21 What is it contributing to the process from your
22 perspective or what you bring to it, and I'll
23 start with you, Mr. Sakich, if I could.

24 MR. SAKICH: That's a tough question to answer. I've
25 listened to some of the stuff earlier today and
26 there is other parts of the IHPC that you don't
27 hear about. Like there is the Chinook Committee
28 which has a number of different people put on
29 there which will get its technical information and
30 everything it needs to be able to work with. It's
31 sort of broken up like that.

32 They will come back to that room and look for
33 a recommendation for consensus on what they have
34 learned. I don't know how else you could run it.
35 It has to be consensus.

36 Basically, when we did put forward, again,
37 different than earlier from the commercial
38 industry about licensing things, we got consensus
39 out of there and we did have a meeting, phone
40 meeting, with a person from Ottawa to follow up on
41 that. So simple issues you can get consensus on,
42 big ones, you can't. But then I think with this
43 Chinook recovery thing coming up is going to be
44 one of the first challenges around there, where
45 there is a Chinook Committee that will go away and
46 work with the people that we'll give them the
47 technical information that they need, and they

- 1 will bring that back to the table.
- 2 Q All right. Well, let me ask the question then in
3 maybe a slightly different way, and again,
4 focusing on Fraser River sockeye. You're there as
5 a representative of the Commercial Salmon Advisory
6 Board -- sorry, I get these names mixed up.
7 You're there for the CSAB. What is your
8 objective? Like what information does your group
9 hope to bring to those meetings, and what does
10 your group hope to achieve at those meetings in
11 relation to Fraser River sockeye?
- 12 MR. SAKICH: There's not really a whole lot you can do
13 there. Fraser River sockeye has a process all of
14 its own. You may talk about the harvest rate sort
15 of thing. You may have those discussions, but you
16 have such a diverse group of people in that room.
17 Some people are not even connected with some
18 things, so it's sort of an odd place to take that
19 sort of stuff.
- 20 Q Who are you talking about when you say "some
21 people aren't even connected" to that?
- 22 MR. SAKICH: Well, there's some people that are from
23 the other end of the coast that are in there that
24 aren't really much around the Fraser River sockeye
25 issues, all of the things that go on there.
26 There's just a diverse group of people.
- 27 Q All right. And then does your organization hope
28 to achieve anything through its participation at
29 the IHPC?
- 30 MR. SAKICH: Well, it seems to be interlinked with
31 getting the Integrated Fisheries Management Plan
32 together, and that is an important step in there.
33 How else you would do it, I don't really know.
- 34 Q Okay. Mr. Young?
- 35 MR. YOUNG: Could you repeat the question, please?
- 36 Q I asked what the purpose is of the IHPC, but it
37 may be helpful to think about in terms of the
38 questions I asked Mr. Sakich, which is what does
39 your group bring to the table and what is your
40 group hoping to achieve, or what is the objective
41 for your group in a big-picture sense? Are you
42 trying to get consensus? Are you trying to
43 resolve disputes? Is there some other process
44 that you're engaging in there?
- 45 MR. YOUNG: I think the main Conservation Caucus hopes
46 to achieve -- or ensure that conservation is held
47 up as the priority mandate for DFO. Functionally,

1 that's consisted of ensuring the Wild Salmon
2 Policy is being implemented.

3 In terms of how the IHPC has functioned and
4 what it's proven to provide, I would say generally
5 information from DFO to participants, some
6 information from other sectors that's useful. It
7 provides a venue to provide some advice to DFO
8 and, at times, it provides the opportunity for
9 some useful discussion between sectors.

10 Q Do you find it's an opportunity to resolve
11 disputes between sectors?

12 MR. YOUNG: Not exclusively. So what I mean by that is
13 it can provide that opportunity. I don't think
14 it's being used to serve that purpose in a very
15 explicit way, so a lot of the time disputes may
16 not be dealt with there, or attempted to be dealt
17 with outside of that process.

18 Q Sorry, I should have asked that of you, Mr.
19 Sakich, as well. Do you find that the IHPC is a
20 place for different sectors to resolve disputes
21 that are arising in overlapping fishing plans
22 or...?

23 MR. SAKICH: No. It is very big on information. I
24 can't say that there's not a lot of information
25 supplied, I missed that earlier. But the sectors
26 basically work that out in their own advisories.
27 They don't really bring it in there.

28 Q Okay.

29 MR. SAKICH: It's not a place to go and fight about the
30 fishing plans.

31 Q Okay. Mr. Assu?

32 MR. ASSU: Well, as far as our interest in attending
33 the IHPC is really just to ensure that we end up
34 with a coordinated fishing plan at the end of the
35 day, and that any of the issues that are before
36 us, it's given us an opportunity to at least
37 address it at that level.

38 In particular, I'm talking about two issues
39 that arise each and every season, and we'll never
40 reach consensus at the table. We all go away and
41 do our letter-writing after the fact. Those two
42 issues being the Early Summer run escapement level
43 and where it's going to be set at, and also the
44 Cultus Lake exploitation rate and what that
45 allowable rate will be on an annual basis because
46 it's, of course, listed under **SARA**.

47 Q This may have been answered partly already, but do

1 you think the role of the IHPC is to actually
2 reach a consensus that will be implemented by DFO
3 or is the role simply to advise DFO who will then
4 ultimately make decisions? I'll start with you,
5 Mr. Assu.
6 MR. ASSU: I believe that it's more an advisory role
7 than anything else as far as what we're doing
8 there.
9 Q Okay. Mr. Young?
10 MR. YOUNG: I agree. It's an advisory process.
11 Q Mr. Sakich?
12 MR. SAKICH: Yes, information gathering and advisory.
13 Q Okay. As participants in that process, who needs
14 to be at the table for the process to work
15 effectively? Are the people that are there now
16 the right people, or are there people missing who
17 should be there? Are there more people there than
18 need to be there? I'll start with you, Mr.
19 Sakich.
20 MR. SAKICH: Well, I would sure like to see -- I'm
21 going to speak for our commercial sector. I would
22 like to see their proper full participation there,
23 because sometimes there's a couple missing and
24 they miss out on things. Like I said, there's a
25 lot of information there. So the sectors or
26 whoever you're representing, whatever groups you
27 are, should have their full participation of
28 people there.
29 Q Does the structure, as it currently is, prevent
30 those people from coming or is it that they just
31 haven't showed up and they've been invited but
32 they haven't showed up?
33 MR. SAKICH: They just haven't showed up, I guess,
34 feeling not too much happens there, whatever the
35 case is. But they do miss a lot of things that
36 they should know about when they're not there.
37 Q Mr. Young?
38 MR. YOUNG: I think First Nations are under-
39 represented. However, given that it's an advisory
40 process and not really functional as a decision-
41 making process, I guess it's a little more open in
42 terms of how important it is to have different
43 representation. But generally, given the scope of
44 impact of at least DFO's decisions that may or may
45 not be reflecting the IFMP or discussed at the
46 IHPC, First Nations are significantly affected by
47 those and representation of First Nations is, I

1 think, less than ideal.

2 Q Mr. Assu?

3 MR. ASSU: I guess I would agree with Jeffery's
4 comments. But having said that, I am just not
5 clear on who has officially actually requested a
6 seat, per se, and obviously notifying the
7 Department that they're unrepresented.

8 I guess the only other thing that I would add
9 to that is right from the inception of the IHPC, I
10 can remember the first meeting we ever had, and I
11 think we must have had something like 75 or 80
12 observers in the room. I think because it was a
13 new process, people weren't trusting it. What
14 I've noticed is, over time, that has gone by the
15 wayside and I think people are feeling a bit more
16 comfort with the whole process.

17 Q What about from the DFO perspective? Does DFO
18 bring the right people to those meetings for the
19 advice that's being sought, and also the
20 information that's being given by DFO. Mr. Young?

21 MR. YOUNG: For many of the topics discussed, I believe
22 they bring the right people, the right experts to
23 discuss those topics and to provide information.
24 I think for certain issues related to decisions,
25 there may be the right level of DFO person there
26 to be able to adequately discuss the latitude
27 around which they might consider different
28 approaches or different decisions.

29 But ultimately, with the decision-making
30 authority generally being held quite high, and in
31 many cases around the issues of greatest concern
32 to those at the table, that being the Minister's
33 office, there isn't actually the decision-maker at
34 the table able to have an interactive dialogue, I
35 guess, with the participants in the IHPC.

36 Q All right. Do either Mr. Assu or Mr. Sakich have
37 anything to add to that?

38 MR. SAKICH: You couldn't possibly cover off all of the
39 subjects that come up there. There's a pretty
40 diverse group of people there. You have people
41 from up in the Skeena, you've got them from Prince
42 Rupert, Queen Charlotte Islands. You've got, in
43 the Fraser River, all over the place. So
44 everybody is looking at somewhat different sort of
45 issues that pertain to them, and just to cover it
46 all off there in a couple of days would near be
47 impossible.

1 So that's why I say this Chinook Committee
2 that's going to be tasked with this recovery thing
3 that's going to start up, it will be interesting
4 because they will have to report back to the
5 table. That's the way I see it should run.

6 MR. ASSU: I guess in terms of DFO's involvement at the
7 IHPC, there is a large contingent of DFO people at
8 the IHPC. At times I think there's more of them
9 than there is us. So they do do their best to
10 make sure they have the appropriate people there
11 for the most part.

12 Q And just sort of stepping back, do you think that
13 the IHPC and the process for providing input to
14 the IFMP do allow stakeholders to give DFO
15 meaningful input? I'll start with you, Mr. Assu.

16 MR. ASSU: I guess, as far as what we can do in terms
17 of that process. We are allowed to try and advise
18 them the best we can, but like I said earlier,
19 there's a lot of subjects that we can't reach
20 consensus on within the room and I guess we all go
21 away and we develop the letters and send them off
22 to the appropriate people within the Department at
23 the end of the day, and they do receive a lot of
24 advice for the IFMP by means of letter-writing
25 campaigns.

26 Q Mr. Young?

27 MR. YOUNG: In terms of providing a venue to gather
28 information and provide some advice back to the
29 Department, I think it's more useful -- or it's
30 useful to have it, it's better to have it than
31 not. I think the process could be improved
32 considerably though.

33 I think there's a couple of examples. One
34 is, as we've heard, fishing plans for specific
35 sectors or areas may be developed bilaterally and
36 placed in to a draft IFMP, and it can be difficult
37 for other participants to identify and understand
38 what's being proposed and be able to evaluate it
39 in a way that's timely and useful, timely in a way
40 that allows us to provide useful input.

41 Another point I'd make quickly is that it's
42 my belief that conservation objectives are the
43 first priority in terms of fisheries planning, and
44 that if DFO is more clear about exactly what
45 conservation objectives they were prioritizing and
46 going to meet in a year, it would be a lot easier
47 for us to evaluate -- and participants, I think,

1 to evaluate and IFMP or issues that come up at the
2 IHPC more easily.

3 Q Can you give me an example of what you would be
4 looking for?

5 MR. YOUNG: I think the Wild Salmon Policy provides a
6 fairly clear direction in terms of defining
7 conservation for the purposes of fisheries
8 management. So, for example, identifying
9 conservation units and limit and target reference
10 points -- sorry, limit and -- sorry, lower and
11 upper benchmarks for each conservation unit.

12 For example, if we have identified
13 conservation units that are in the red zone,
14 specific conservation planning needs to be
15 undertaken and knowing that that's the policy and
16 that's the requirement of DFO for fisheries
17 planning, I think it would be a lot more effective
18 kind of framework for participants to discuss how
19 we best meet those objectives.

20 Q Conservation goals are set out in the draft IFMP,
21 are they not, in terms of proposals for certain
22 stocks at risk?

23 MR. YOUNG: I think over time there's been improvement
24 in listing some conservation objectives. I would
25 suggest that that's partly due to our input.
26 We've actually been requesting that information at
27 the conservation unit level and objectives at the
28 conservation level be included.

29 They have started including some conservation
30 objectives. Some of them are relatively clear,
31 some of them are very general which makes it
32 difficult to measure whether they're being met. I
33 don't think they're laid out in a comprehensive
34 way that you could suggest is consistent with
35 meeting the full conservation requirements of the
36 Wild Salmon Policy.

37 Q Mr. Sakich, does the IHPC and the development of
38 the IFMP process, does it provide for meaningful
39 input from stakeholders?

40 MR. SAKICH: Well, the IFMP is basically put together
41 before it goes in there. All the various groups,
42 sectors, whomever you are, you work at it and it
43 is in a draft form. Basically, the place is to
44 somewhat sign off on it. That's about all you can
45 do with it. The problem is, is that if you were
46 able to remove all of the other issues out of that
47 room that muddy the waters whenever you try and do

1 this work, it might succeed a little better.

2 Q Can you give me an example of what you're talking
3 about?

4 MR. SAKICH: Well, you shouldn't have allocation issues
5 in there, you shouldn't be having political scraps
6 over the fish in there. These things develop
7 because you have such a diverse group of people in
8 there. So if those things were removed outside of
9 there and you actually narrowed that down to
10 probably what it was invented for, you'd do a lot
11 better.

12 Q And what would that narrow scope be that you think
13 would be workable?

14 MR. SAKICH: I think being able to accept each other's
15 way of -- you're going to handle your fishing
16 plans.

17 Q Just reviewing the fishing plans as they've been
18 developed in bilateral meetings.

19 MR. SAKICH: They've been developed in other meetings
20 and then brought in, in a draft form, but if you
21 look at a two-day meeting and some of the things
22 that take place there, I mean, it wanders. It has
23 to, because it's such a diverse group of people.
24 So if you've got those other things out of there
25 and stayed with what you'd brought in, in your
26 draft form, and okayed for each other, then you
27 could say it is a sign-off place for the IFMP.

28 Q The stakeholders are provided with a lot of
29 technical information at those meetings and in the
30 development of the fishing plans for the groups,
31 including outputs from the FRSSI model and other
32 technical information. Do stakeholders and do
33 First Nations, from your perspective, have the
34 technical and the human resource capacity, the
35 technical capacity and even the financial capacity
36 to understand those issues and provide meaningful
37 input during this advisory process? I'll start
38 with you, Mr. Sakich.

39 MR. SAKICH: Well, some of it's so complicated. I'm
40 going to be very honest with you. Most of it goes
41 over the top of my head because I'm not a -- I
42 haven't been trained in reading models and doing
43 all sorts of things. Some of it gets very complex
44 and I get a good look at it around the Fraser
45 Panel, so if you just start bringing that stuff in
46 the room and -- it's not just about providing the
47 technical expertise. First of all, I guess you'd

1 better go and learn how it all runs even before
2 you attempt to go to that level.

3 Q Mr. Kristianson, when he was here, said that he
4 felt that the role of DFO was to provide neutral
5 unbiased scientific advice to all the stakeholders
6 and that he didn't see a need for stakeholder
7 groups to have their own technical advisers. What
8 do you think about that proposition?

9 MR. SAKICH: Well, they have technical advisers in
10 other processes. If you want to go around the
11 Fraser Panel, there's technical advisors there.
12 Like I said, this Chinook Committee is going to be
13 interesting because they're going to have
14 technical advice, but it's not going to be done in
15 that room. They will come back to that room on
16 how they feel about how things are being done.
17 But you turn technical advice loose in that room,
18 you're going to be there 365 days.

19 Q So do you think that DFO should be the one
20 providing the technical advice and explaining it
21 to the stakeholders, or should the stakeholders be
22 bringing their own technical advisers in and
23 having those sorts of debates at the technical
24 level?

25 MR. SAKICH: I think that the information - and I'm
26 going to go along with Brian on this one - the
27 amount of information we're supplied from
28 Fisheries and Ocean is very substantial and it's,
29 for the most part, understandable. It doesn't get
30 too technical, because you have to be able to have
31 the people in that room be able to understand it.

32 Q Mm-hmm.

33 MR. SAKICH: You wanted to get right into that stuff,
34 everybody's head would swim.

35 Q All right. So from your perspective, then, is the
36 information provided adequately for you to
37 understand what's being presented and give the
38 advice that you're being asked to give? Do you
39 feel like -- you said initially when you started
40 off sometimes it's so complicated it goes over
41 your head. Like is it so complex that you can't
42 actually provide the advice they're looking for,
43 or do they explain in a way that it's
44 understandable.

45 MR. SAKICH: No, I think I jumped ahead of myself
46 there. It's not so much there. It's in some of
47 the other places. I think the advice we're

1 getting there is adequate for what you're doing.

2 Q Okay. Mr. Young?

3 MR. YOUNG: I think DFO has a responsibility to provide
4 objective scientific information and, more than
5 that, a responsibility to identify how it may
6 affect their conservation objectives or their
7 mandate as clearly as they can. I do think
8 there's issues with how clearly they're presenting
9 that information. I think it could be done better
10 given the audience.

11 In terms of whether stakeholders have an
12 adequate technical support to participate, putting
13 aside that first issue, it's difficult for me to
14 say exactly. The Marine Conservation Caucus, all
15 of our current members each have advanced graduate
16 level training in either fisheries, science or
17 ecology, so I think we feel adequately able to
18 participate.

19 But insomuch as any other participants, or us
20 as well, identify that problem of technical
21 understanding or technical capacity, I do think
22 that's an issue that should be addressed. I'm not
23 sure by what means is best.

24 Q Mr. Assu?

25 MR. ASSU: Yeah, I heard Gerry's recommendation there
26 this morning, and actually I kind of tend to agree
27 that at the IHPC level, that's probably not a bad
28 idea.

29 But having said that, it definitely has to be
30 neutral, unbiased as far as the Department is
31 concerned, because I've noticed in the past that
32 it is not always that case.

33 Q Right. You'll recall Mr. Rosenbloom asked some
34 questions of Mr. Kristianson about whether he felt
35 that DFO was funded adequately to meet that
36 obligation to provide the advice required, the
37 scientific advice required in a comprehensive and
38 neutral way, and Mr. Kristianson expressed some
39 concerns with that. Have you got any concerns in
40 that respect?

41 MR. ASSU: I would probably just have to agree with
42 what was said earlier, that there has been a lot
43 of, what I've noticed, cutbacks over time and
44 there's very few people that can actually
45 participate in everything that they're being asked
46 to do.

47 Q Thank you. Well, that leads into my next question

1 which is: We talked about the technical issues,
2 what about the human resources? Do we have too
3 many processes and not enough people, or is it at
4 a good level? Start with you, Mr. Assu.

5 MR. ASSU: We do have a lot of processes and I guess
6 I'd have to say probably all the processes we have
7 that exist today probably all serve a purpose.
8 You're absolutely correct in terms of --
9 especially whether it be commercial or First
10 Nations representation at any of these processes,
11 it becomes very difficult because people start
12 relying on the same individual to attend all of
13 the different processes. I guess sometimes it's
14 for some consistency with respect to the fishery.

15 Q Thank you. Mr. Young, I wonder if you could
16 address those two questions I just raised with Mr.
17 Assu. One is the funding adequacy that, from your
18 perspective, or how you've seen DFO being able to
19 meet its obligations and then also the human
20 resource adequacy issue. Is there enough people
21 to do all the meetings and processes that are
22 being put forward by the Department?

23 MR. YOUNG: I think there is a lack of capacity and
24 effort on DFO's part put into some of the basic
25 requirements for managing the fishery. That would
26 include escapement monitoring and some other
27 science. I think that -- and we need to improve
28 that particularly consistent with the Wild Salmon
29 Policy. I think with that information and better
30 clarity from DFO on the conservation objectives
31 and the requirements of the Wild Salmon Policy.
32 The Wild Salmon Policy actually lays out exactly
33 how information would be presented in actually a
34 fairly clear format. With that, I think that the
35 efficiency actually of these processes could be
36 improved quite significantly because we'd have a
37 better understanding of what we're trying to
38 manage for, and not just discussing or arguing
39 about what that might be.

40 In terms of participation, well, firstly, I
41 think my primary input on that is that I think the
42 efficiency of these processes could be improved
43 through that which might address that issue in and
44 of itself. But I do think that there is a large
45 number of processes. It definitely is difficult
46 for the Marine Conservation Caucus to participate
47 fully in all of them.

1 But I do think DFO themselves, actually, do
2 put a fair amount of resources into the processes
3 themselves.

4 Q All right. Mr. Sakich?

5 MR. SAKICH: Well, process is a pretty big word. I
6 don't know which ones would go. I mean, which
7 ones are you thinking of that -- you know, you --

8 Q We've heard about the different meetings that DFO
9 holds with different sectors individually. We've
10 heard about the IHPC. We have heard about the
11 Integrated Salmon Dialogue Forum. There's the
12 Fraser River Panel, there's the technical
13 committees. There's a number of -- and I know
14 that that's not even close to all of them. But
15 there is a lot of -- we have certainly heard of
16 many different consultations that the Department
17 is involved with, and we do see the same names
18 come up over and over again.

19 So my question is not necessarily critical of
20 that, I'm just wondering if, from your sector's
21 perspective, are you feeling burnout? Is there
22 too many processes? Should they be consolidated
23 or are they unique to different purposes and it's
24 manageable?

25 MR. SAKICH: I think they're unique to different
26 purposes.

27 Q And is it manageable for your sector to meet the
28 obligations that have been put on you to
29 participate?

30 MR. SAKICH: We manage to get into the mandatory ones.
31 Don't forget the Salmon Dialogue Forum is
32 volunteer. It's exactly what it says. It is a
33 dialogue forum, interesting. We manage to get
34 people at the IHPC and in the other stuff I'm
35 involved in, we manage to get them there.

36 Q Okay. The IHPC is focused, at least in the spring
37 period, it's focused on the development of the
38 IHPC. I'm not going to take you to these
39 recommendations 'cause we have done this earlier
40 in the hearings, but there were recommendations
41 made in 2001 from the Institute for Dispute
42 Resolution, and then from Mr. Chamut in 2003, that
43 there be a Policy Advisory Committee and a public
44 forum for discussion of policy issues amongst all
45 sectors, that that kind of a forum should be
46 developed. The information we've received from
47 DFO in this inquiry is that the IHPC is the

1 process where these policy issues are being
2 discussed. Do you agree with that? Is the IHPC
3 currently being used for policy discussions and is
4 it appropriate to use the IHPC for policy
5 discussions at all? I'll start with you, Mr.
6 Sakich.

7 MR. SAKICH: I don't think you can do it there.

8 Q Is there an attempt to do it at the IHPC now, or
9 is that being done somewhere else?

10 MR. SAKICH: Well, policy is a pretty big thing.
11 You're not going to jump into that forum and get
12 consensus on it if that's what you're looking for.

13 Q All right. Let me just leave it at that and ask
14 you, Mr. Young, is IHPC the place for a policy
15 debate?

16 MR. YOUNG: I would say no, and I would actually go so
17 far as to say that my recollection is that we've
18 explicitly avoided doing that. At least I recall
19 times when it's been suggested that -- a
20 discussion point may have been around policy and
21 that it was something that shouldn't be discussed
22 fully at the IHPC.

23 I don't think that it is the appropriate
24 place for policy discussions, particularly
25 insomuch as policy often will deal with an effect,
26 a different range, and often a broader range of
27 stakeholders than may be represented by the IHPC.
28 So I think for whatever policy is being discussed,
29 it would have to be adequately, whatever process
30 that was, adequately ensure representation by
31 those affected.

32 Q All right. Would a policy forum alleviate some of
33 the difficulties that you expressed earlier within
34 the IHPC where you said the objectives aren't
35 clear, it's not really clear what people are
36 trying to achieve so it wastes time at the IHPC?
37 Would a policy forum help move that process along?

38 MR. YOUNG: No, the issues that I was raising was
39 really about kind of the fundamental scientific
40 basis of the Wild Salmon Policy and identifying
41 how DFO is going to meet its priority mandate
42 around conservation, and I think defining
43 conservation is primarily a technical scientific
44 question, but then how we go about meeting those
45 objectives may involve different participants. I
46 actually think, as it relates to harvest, the IHPC
47 might be an appropriate place for that to happen.

1 Q Okay. Mr. Assu?

2 MR. ASSU: I would agree with what's been said, that
3 the policy forum in itself probably should be
4 separate from the IHPC and that they shouldn't be
5 together.

6 Q We've heard that the province has an *ex officio*
7 role at the IHPC. What is the role of the
8 province from your perspective at the IHPC? What
9 does it contribute to the discussion, and what's
10 its role? Mr. Assu?

11 MR. ASSU: Well, I guess really, to be quite candid, I
12 don't really know exactly what their official role
13 is in terms of the IHPC. I know they've been
14 participating there for a long time, but what
15 their specific role is, it's never been clear to
16 me.

17 Q Mr. Young?

18 MR. YOUNG: It's not clear to me either. I could see a
19 role for the province in raising concerns around
20 how harvest planning could intersect with some of
21 their responsibility, for example, around
22 management of steelhead or sturgeon. At times, I
23 do think those issues have come up from the
24 provincial representation, but overall, I'm not
25 fully aware of what their role is.

26 Q Mr. Sakich?

27 MR. SAKICH: I think the province has a role in it for
28 the fact that they have a Fisheries Department.
29 They're partners with the federal government in a
30 lot of this stuff. They have their interests to
31 be represented and, as Jeff says, when it gets
32 into some of the freshwater stuff, that's where
33 they actually have jurisdiction.

34 Q Okay. With the IFMP, we've heard from other
35 witnesses how the drafts are presented, and the
36 different meetings that they're presented for the
37 draft IFMP, so I'm not going to go over that with
38 you. I do have a question about this. Has there
39 ever been -- you've talked about how it's
40 difficult to reach consensus at the IHPC. Has
41 there ever been instances where there was
42 consensus at the IHPC that was not later taken up
43 in the final IFMP as approved by the Minister?
44 Mr. Sakich?

45 MR. SAKICH: I couldn't answer that. There's just so
46 much of it. It's just -- it's huge. IFMP is like
47 a phone book now.

1 Q Okay. Mr. Young, have you got any response to
2 that?

3 MR. YOUNG: I think both in terms of providing advice
4 through independent participants or as consensus,
5 it's always seemed to me to be in an advisory way.
6 So I've never really had this expectation that a
7 consensus motion, as they've generally been put
8 forward, is going to be taken as anything
9 particularly different than advice, other than
10 having some weight behind it.

11 I am aware of the one where people agreed to
12 a motion around a licence fee holiday, although
13 I'm not really certain if that is the type of
14 decision that people had envisioned would be --
15 we'd come to through consensus or not. In terms
16 of function, as I've said, I think the IHPC has
17 more been about advice.

18 Q All right. Well, let me ask it maybe a different
19 way before I come to you, Mr. Assu, because I
20 probably can ask it in a better way. Is it clear
21 to you as participants in this process how the
22 discussion that you've had with the Department
23 through the bilateral meetings and through the
24 intersectoral discussions at the IHPC, how those
25 -- how that advice and input you've given to the
26 Department finds its way into the final IFMP and
27 the final decision is made on the IFMP?

28 Is that final sort of thread from meetings
29 and discussions through to the finalization of the
30 IFMP clear and transparent to stakeholders? I'll
31 start with you, Mr. Assu.

32 MR. ASSU: I guess I'm really not absolutely clear on
33 how some of that advice, at the end of the day, is
34 arrived at. Like I said earlier, I do know just
35 what the two issues that I'd spoke of, I think six
36 years running now our organization has had to
37 provide letters to DFO on the Early Summer
38 escapement and of course the exploitation rate for
39 Cultus. It isn't absolutely clear to me how they
40 arrive at their final decision with what they end
41 up entering into there.

42 Q Mr. Young?

43 MR. YOUNG: Yeah, it's not clear to me either. I share
44 that perspective on those issues for the examples
45 of the Early Summer harvest rate and the Cultus
46 sockeye exploitation rate.

47 I'll add two other examples. One is I am

1 aware or believe at least that some sectors have
2 been involved in drafting fishing plans or
3 portions of a fishing plan that then end up in the
4 IFMP. So for those sectors, those interests, I
5 think that is fairly transparent to them at least.

6 But I'm also aware of examples where we've
7 requested certain changes to the IFMP,
8 particularly around identifying conservation
9 objectives for conservation units, and I've known
10 that that hasn't resulted in a change in the IFMP
11 and I don't know why, by what process that
12 decision was made.

13 Q Thank you. Mr. Sakich?

14 MR. SAKICH: Again, I just don't think you could make
15 those sort of decisions in there, not in three
16 days out of a year.

17 Q But is it clear to you, once all the information
18 has been provided through the different meetings
19 that are held and the different consultations that
20 DFO may have with your sector, and then at these
21 intersectoral meetings, how all that information
22 gets synthesized and decisions are made as to what
23 actually finds its way into the final IFMP? Is
24 that clear from your perspective?

25 MR. SAKICH: If you were to go through all of the
26 things in the IFMP, you would be there a lot
27 longer than a day. So I think they agree to agree
28 sort of thing. But if you wanted to take it all
29 apart, you would be working at it a long time.

30 Q Are you satisfied, then, with the process from
31 your sector's perspective?

32 MR. SAKICH: Once you clean it up a little bit. For
33 instance, there's one that was just mentioned
34 here, the licence holiday thing. It had no
35 business being in there. I remember that
36 distinctly. We met the day before that with the
37 CSAB and they said, "You're taking this in there."
38 I said, "Are you sure that's the right place?"
39 They insisted, so that's how it got there, but it
40 shouldn't even be there. That should have been
41 dealt with in our own place. We didn't need
42 consensus for that.

43 Q Right. Moving from the pre-season planning
44 process which is most of what is happening at the
45 IHPC level, and into the in-season decision-making
46 timeframe, can the IFMP, in your view, adequately
47 address all of the in-season decision-making

1 that's required, particularly where the in-season
2 results turn out to be quite different from what
3 anyone had anticipated pre-season?

4 So can the IFMP, as drafted, adequately cover
5 all the contingencies that may arise, or should
6 there be -- how do you deal with in-season
7 decisions that may need to be made outside of the
8 IFMP because situations have changed or the run's
9 radically bigger or radically smaller than
10 anticipated, or any other circumstances that arise
11 in season. Mr. Sakich?

12 MR. SAKICH: I think you want to be careful in a lot of
13 different ways with that IFMP, that you lock
14 yourself into things whether they would be
15 beneficial or not beneficial, or even wrong in
16 some cases. I'm just not talking run size here.
17 There's all sorts of things in there that a
18 situation may arise during the particular year
19 when you think it should have a change for some
20 reason, but no, it's in the IFMP. That way, it's
21 not so good.

22 Q You think there should be more flexibility for in-
23 season decision-makers?

24 MR. SAKICH: Yes. This you keep in mind, the in-season
25 decision stuff can go both ways.

26 Q Meaning what?

27 MR. SAKICH: Well, you could gain opportunities or you
28 could lose opportunities. It's not fixed in any
29 one spot, as that's how it should be. It seems to
30 be easy to go down, but very hard to go up. So in
31 some ways, once it's in there, it is totally
32 inflexible.

33 Q And that, from your perspective, is a problem?

34 MR. SAKICH: That is a problem.

35 Q Mr. Young?

36 MR. YOUNG: I do think the IFMP should very clearly
37 identify the objectives for the fishing plan, so
38 the conversation objectives as well as the
39 allocation objectives which would include the
40 prioritization, and meeting the prioritization
41 within allocation.

42 I think it is appropriate to have an in-
43 season process firstly to ensure that we're
44 relying on in-season information to meet those
45 objectives, but also to identify and deal with
46 scenarios where given conditions in the water,
47 what we had assumed might be the best way to meet

1 those objectives might need to change. But
2 ultimately, the objectives themselves should be
3 well-defined and well-understood by everyone.

4 Further, I think the IFMP can include a
5 decision-making framework or decision rules that
6 should largely be unchangeable except in extreme
7 circumstances where it's clearly running into one
8 of those clearly stated objectives.

9 Q So, from your perspective, is the IFMP as its
10 currently drafted, meeting that goal? Does it
11 have decision rules that are adequate for changing
12 in-season environment?

13 MR. YOUNG: No, I think it lacks clear -- particularly
14 clear conservation objectives, and I think it
15 could be improved in terms of identifying both
16 allocation objectives and proposed decision roles.

17 Q Mr. Assu?

18 MR. ASSU: No, I don't believe that the IFMP can ever
19 cover every circumstance that may arise from time
20 to time, and that as far as the in-season
21 management of the fisheries go, there has to be
22 more flexibility in trying to make changes if need
23 be. Peter nailed it. It could either be one way
24 or the other, to the good or to the detriment of
25 your fishery, but you need that flexibility.

26 I guess in terms of what I believe in as
27 flexibility is within region here. That's where
28 the decision I think has to be made as far as in-
29 season, rather than having to get the ministerial
30 authority to make changes to the IFMP within the
31 season.

32 Q This last year, 2010, a decision was made to go to
33 the Minister for approval of an alteration to the
34 fishing plans. Did you find that that was
35 ineffective in some way?

36 MR. ASSU: You know what? Up until this morning I
37 wasn't even aware that was done.

38 Q If you've already given me your evidence on this,
39 then we'll move on, but I just wanted to make sure
40 I'd covered off whether you had any ideas as to
41 how in-season decision-making should be done if
42 it's outside the parameters set by the IFMP as
43 currently drafted. Mr. Sakich?

44 MR. SAKICH: Could you give that to me again?

45 Q Yeah, if you say the IFMP shouldn't be too strict,
46 that there should be some flexibility for in-
47 season decision-makers, how do you say that the

1 in-season decision-makers should make those
2 decisions? Should there be intersectoral process
3 before changes are made? Should it go back to the
4 Minister? Should it be some other process? Like
5 how do you think it should be best managed in
6 season?

7 MR. SAKICH: I think you need a level of flexibility
8 that that's going to be science-driven. That's
9 just not going to be throwing the dart at the wall
10 why you'd make a change.

11 Q So you would expect that science advisors should
12 be making recommendations for changes, and then
13 who would ultimately make the decision? Would it
14 be at the Fraser River Panel level, or some other
15 level?

16 MR. SAKICH: Well, all I know is the change that took
17 place last summer was -- I guess it was a
18 recommendation of the Minister probably, I assume.
19 It must have come out of science, managers of
20 science, the whole suite of DFO around the Fraser
21 issues.

22 Q Was it adequate, last year's change in the plan?
23 Was that adequate from your perspective, the
24 process?

25 MR. SAKICH: I think so.

26 Q Okay. You thought it was sufficient for it to
27 have recommendation to go to the Minister? You
28 don't agree with Mr. Assu that it should be done
29 in the region?

30 MR. SAKICH: Well, I guess if it could be, it would
31 streamline it basically, but as long as you can
32 get the same results in the end -- because you
33 have to look at the other side of the coin here
34 too. Not that many years ago I think we let about
35 20 million fish go through because -- or 18
36 million or something because of a couple of stocks
37 specific to that year that were down. So the
38 whole run went. So there is decisions made. The
39 decision was made to leave it like that because of
40 that.

41 This year, there was a decision made to
42 increase the harvest rate because of the amount of
43 surplus.

44 Q Mm-hmm. So was the process in 2010 adequate from
45 your perspective?

46 MR. SAKICH: I guess the process had identified some
47 issues that had to be dealt with.

1 Q Right. And was it resolved in a way that was
2 satisfactory from your perspective?

3 MR. SAKICH: Well, nobody liked it. That's a lot of
4 fish going by the doorstep.

5 Q In 2010?

6 MR. SAKICH: I can't remember. Brian may be able to
7 recall the year. It's got to be five years ago or
8 so.

9 Q No, I was asking about whether the 2010 decision
10 to change the fishing plan by going up to the
11 Minister for approval on a change was an adequate
12 process from your perspective?

13 MR. SAKICH: It was adequate if you had to go to the
14 Minister to do it. That was the only discussion
15 that there was earlier.

16 Q Yes.

17 MR. SAKICH: The process of -- doing it was adequate to
18 be done.

19 Q Okay. Mr. Young?

20 MR. YOUNG: I think that if the IFMP is really clear
21 with its objectives and decision rules, it would
22 limit the amount of necessary in-season decision-
23 making around those rules. I think that going to
24 the example you used, I think that was an
25 inadequate process. I think both that the level
26 of decision was made -- the level, the type of
27 decision that was made was in contravention
28 potentially with a conservation objective and a
29 decision rule within the IFMP, and I also don't
30 think necessarily that the advisory process around
31 that was necessarily either transparent or
32 adequately considered those issues.

33 MS. BAKER: Mr. Commissioner, it's 12:30, so I wonder
34 if we should take the break?

35 THE REGISTRAR: The hearing is now adjourned until 2:00
36 p.m.

37

38 (PROCEEDINGS ADJOURNED FOR NOON RECESS)

39 (PROCEEDINGS RECONVENED)

40

41 THE CLERK: Order. The hearing is now resumed.

42 MS. BAKER: Thank you. Mr. Commissioner, I'd like to
43 start this afternoon and I want to try and finish
44 quickly so my friends have an opportunity to get
45 their questions in for this panel.

46

47

1 EXAMINATION IN CHIEF BY MS. BAKER, continuing:
2

3 Q So the question I'm going to start with is with
4 respect to the Integrated Salomon Dialogue Forum.
5 Now, we've heard a little bit about this from
6 previous testimony, so I am going to ask you sort
7 of a big picture question. What is the role of
8 this forum in Fraser River sockeye management.
9 Mr. Sakich.

10 MR. SAKICH: Well, the forum is not an advisory. It's
11 not a policy forum. It is basically a forum of
12 dialogue where folks can get together in a forum
13 setting, and then we've had some smaller groups,
14 and discuss very prickly issues in and around the
15 Fraser River. I've seen some great headway made
16 there, and one I would say would be between the
17 Recreational and the First Nations in the Lower
18 Fraser. When I was on that Williams process,
19 everybody sat on a different side of the room and
20 now they're sitting at the same table.

21 Q But you say it doesn't have a policy role?

22 MR. SAKICH: No, it doesn't have a policy role, but it
23 could, it could very well bring people together
24 that could go off somewhere else and talk about
25 that.

26 Q Is it linked to the IHPC process in any way?

27 MR. SAKICH: No, just for the fact that some of the
28 people that are on there hang around there or go
29 to the IHPC, as well.

30 Q All right. Mr. Young, what do you see the role of
31 this dialogue forum, and maybe you can identify if
32 you are a participant in it as well.

33 MR. YOUNG: Yeah, I'll preface that I'm not really a
34 participant. I've attended one or two meetings,
35 although colleagues do participate. I've
36 generally heard it characterized as a safe place
37 to talk, and somewhere that where mutual interests
38 come together to pursue some initiative that there
39 might be support for that happening, and the
40 example that I'm aware of is the Monitoring and
41 Compliance Panel.

42 Q All right. Do you think it has a role in
43 management of sockeye?

44 MR. YOUNG: Not that I'm specifically aware of. I
45 think the results of the Monitoring and Compliance
46 Panel probably have had some effect on management,
47 but I'm not sure to what extent.

1 Q And would you characterize it as an appropriate
2 place for policy discussions, as identified in the
3 earlier 2001 Institute for Dispute Resolution
4 Report?

5 MR. YOUNG: I'm not fully aware of how it was referred
6 to there. I would say it's an appropriate place
7 for discussion. I'm not sure it's an appropriate
8 place for fully characterizing consultation or
9 decision-making.

10 Q And who attends this dialogue forum. Is it a
11 structured set list of people that go?

12 MR. YOUNG: I'm not really sure. I'm generally aware
13 of some of the people that have participated.

14 Q I should ask that to you, Mr. Sakich.

15 MR. SAKICH: When they started the forum, the e-mail
16 list was huge. It was broad, and slowly narrowed
17 it down over a period of about three years to the
18 folks that showed sort of an interest and kept
19 coming and participating and engaging in it. But
20 when they actually have the Salmon Dialogue Forum,
21 that's, you know, it's a big -- there's different
22 processes within that thing. You have that
23 Peacemakers Initiative that has been worked on
24 most recently. There is the Catch Monitoring
25 Panel, and there is the other one, which was the
26 Chinook Guidebook that they were working on.

27 Q And there will be a section in this Inquiry that
28 will be looking at catch monitoring, and I
29 understand that the Catch Monitoring Panel or
30 group through the Integrated Salmon Dialogue Forum
31 will be talked about at that time. Could you give
32 me then, if those are the three things, just a
33 little bit of summary what each of those processes
34 is directed to and who is involved in it.

35 MR. SAKICH: Well, the Catch Monitoring Panel, I guess
36 it's about ten members, something like that.
37 Presently I am the Chair of it. We have a
38 revolving Chair business sort of thing. I got
39 stuck with the little extra duty there. And the
40 Peacemaking Initiative, I haven't been at that
41 one. I've heard some of the broader talk in the
42 larger forums over it, but I have not attended any
43 of those workshops on that. And I have just
44 attended one or two of the ones on Chinook. I'm
45 not connected to that one.

46 Q And I don't understand that this process or this
47 forum has a formal representative set of

1 participants in the forum, is that right, you
2 don't, in the same way that the IHPC has
3 identified members that are expected to attend.

4 MR. SAKICH: Yeah, the doors are open.

5 Q Okay. Mr. Assu, did you have anything to add on
6 the Salmon Dialogue Forum?

7 MR. ASSU: I have never ever attended myself, but I
8 have always, you know, what I have read on it, I
9 mean, I've always viewed the forum as a place to
10 build relationships, if I can put it that way, and
11 it does facilitate in helping groups come together
12 and try to deal with difficult issues that they
13 have between themselves.

14 Q All right, thank you. I'm going to just come back
15 then, as a couple of summary questions. What in
16 your view could be done to improve the IHPC and
17 the IFMP decision-making process? I'll start with
18 you, Mr. Sakich.

19 MR. SAKICH: I suppose one of the things you'd have to
20 do is identify what really doesn't belong in there
21 and remove it, you know, what subjects. I think
22 it needs to be more identified as exactly what it
23 should be doing, and then the rest of that sort of
24 business shouldn't come in there. I don't believe
25 it's the place where you should be talking about
26 allocation, a whole bunch of things like that.
27 Those have other venues.

28 Q Mr. Young.

29 MR. YOUNG: I think that the IFMP needs to more clearly
30 identify conservation objectives, particularly
31 around the Wild Salmon Policy. I also think that
32 allocation and how priority use is going to be met
33 through the Fishing Plan should also be clearly
34 identified, and as a result I think the purpose
35 and function of the IHPC would be more clear. I
36 also think that First Nations representation needs
37 to be improved.

38 Q Mr. Assu.

39 MR. ASSU: I guess the only thing that I can add is,
40 you know, there are a number of issues identified
41 at the IHPC, whether it be in the pre-season or
42 post-season meetings, for that matter. To me
43 there has to be a mechanism to allow for some more
44 time in between to meet to try to deal with those
45 issues. I think that is something that is
46 missing.

47 Q Can you give an example of that?

1 MR. ASSU: Well, I guess a prime example is the letter
2 writing campaign I speak of. You know, when you
3 have those major issues you know that are going to
4 be before you each and every year, and we all
5 write to whether it be the Minister, the RDG, and
6 hope that there's going to be a decision that is
7 going to change, that may assist us in prosecuting
8 our fisheries. And the only reason I'm saying
9 that, I believe there has, you know, got to be
10 time allocated to allow us to deal with it, is
11 because none of us understands how these decisions
12 are arrived at at the end of the day.

13 I guess beyond that, the only thing that I
14 can add to is when you were referring to the IFMP
15 and what changes may be made there, I guess
16 essentially it is pretty much a multiyear
17 document, but you know, there are components of it
18 that definitely should be made into a multiyear
19 plan.

20 Q So that we would have an IFMP that where things
21 that were relevant for many years would be just
22 constant, and then there would be specific
23 decision-making on harvesting, or whatever, for
24 each year would be identified as the only things
25 that are really on the table for that year?

26 MR. ASSU: That's right, and they would be constant.
27 And because each and every year as you go through
28 the cycles there are different things that you've
29 having to deal with, that would be all outlined,
30 you know, say, for example, for a four-year cycle.

31 Q Here's another big picture question. Is this the
32 right way to be doing decision-making and advising
33 DFO, or should there be another process
34 altogether? And I guess the question really is,
35 is this a system that is workable. Maybe it needs
36 some improvements but it's workable, or do you
37 think it is the wrong system and DFO should be
38 looking at an entirely new way of getting input
39 from the sectors. Mr. Sakich.

40 MR. SAKICH: Well, we'll go back to the Salmon Dialogue
41 Forum. I'm not trying to suggest that's the way
42 you go and do anything. But if it had not been
43 for that forum, you would have never met the
44 people that you need to be dealing with.

45 Q So the people that you meet at the IHPC are not --
46 they're not giving you that --

47 MR. SAKICH: Well, I wouldn't necessarily say that, but

1 if you're talking more of a Fraser/Pacific sort of
2 issue, you know, if it was not for the Salmon
3 Table and the Dialogue Forum, where we have met
4 finally after all these years. You've had a
5 chance to do that, and it is my thoughts, I mean,
6 that now that we have this integrated fisheries
7 going, that even reversing that, there should be a
8 few folks from the Lower River on the Commercial
9 Salmon Advisory Board. You put the commercial
10 stuff together to work its issues out, then you
11 take it into your IHPC.

12 Q When you say there should be some folks from the
13 Lower River are you talking about First Nations
14 people from the Lower River?

15 MR. SAKICH: Yes, from the economic fisheries, they're
16 a licensed fishery just like our extension of the
17 commercial.

18 Q Right.

19 MR. SAKICH: It's a new fishery.

20 Q Have there been any discussions about having that
21 happen?

22 MR. SAKICH: I'm working on it, one step at a time.

23 Q Do you think that the IHPC - while I'm staying
24 with you, Mr. Sakich - do you think that the IHPC
25 process and the way that the IFMP is being
26 developed right now is on the right track, or is
27 it a process that should revamped, start again?

28 MR. SAKICH: I don't think it should be revamped.
29 That's an awful big issue. And as Brian says
30 about not having to change everything in there, a
31 lot of the things you don't open up that are in
32 that IFMP, or I guess it would be the place that
33 you would open them up for further work if you
34 wanted to. I don't know where else you would do
35 that.

36 Q Mm-hmm. Mr. Young.

37 MR. YOUNG: I think the IHPC has some benefits, and
38 we're better off with it than without it. I think
39 ultimately, though, it is just one piece in the
40 puzzle. So I've talked a lot about ensuring
41 objectives are clearly stated. I think that's a
42 key other piece of the puzzle that would make this
43 line up better. And I think that there has to be
44 other processes, as well. So I think the IHPC has
45 to be somewhat constrained around harvest issues,
46 and that other issues may need to be addressed
47 with a broader representation or by different

1 representation. For example, Wild Salmon Policy
2 implementation talks about regional round tables
3 to deal with how to implement the policy at that
4 level, and I think that's an example of another
5 process or other type of forum that may be
6 necessary in addition to the IHPC.

7 Q Mr. Assu.

8 MR. ASSU: I guess if anything I'd have to agree with
9 Peter. Maybe what needs to be done is a review of
10 the terms of reference that exist today for the
11 IHPC and try to remove those components that
12 really shouldn't be there. I mean, there are
13 other processes that are trying to deal with
14 allocation, for example, and whether or not
15 another process should be put into place. I don't
16 believe so. I've been involved in salmon advisory
17 boards now for probably the better part of 30
18 years, and what we have today may not be the best
19 but it's sure a whole lot better than what we had.
20 The processes I was involved in during the '80s
21 were quite frankly ugly compared to what we have
22 today.

23 MS. BAKER: Thank you, those are my questions, and the
24 first counsel to follow me will be Mr. Leadem for
25 the Conservation Coalition.

26 MR. LEADEM: Leadem, initial T., for the Conservation
27 Coalition. I should indicate, Mr. Commissioner,
28 that Mr. Young, who is on the panel, is from the
29 David Suzuki Foundation, as you've heard, which is
30 one of the composite groups forming the
31 Conservation Coalition, and my questions to him
32 will simply be in the way of direct examination.
33 I won't have any cross-examination of this panel.

34
35 CROSS-EXAMINATION BY MR. LEADEM:

36
37 Q I want to begin, Mr. Young, simply with trying to
38 understand what the David Suzuki Foundation is all
39 about. My understanding, it's an environmental
40 organization and that its aim is to protect
41 biodiversity now and for future generations of
42 Canadians; is that right?

43 MR. YOUNG: That's correct.

44 MR. LEADEM: Mr. Commissioner, I am going to lead him
45 through some of this early stuff, if that's okay.

46 Q A couple of the key programs that the David Suzuki
47 Foundation have are to avert climate change, to

1 protect animals in their habitat, to conserve
2 oceans and freshwater ecosystems; is that right?

3 MR. YOUNG: That's correct.

4 Q It has approximately 25,000 donors across Canada
5 with offices in Montreal, Ottawa, Toronto and
6 Vancouver, and employs 56 people right here in
7 British Columbia; is that right?

8 MR. YOUNG: That's correct.

9 Q Now, I want to move on to talk about some of the
10 work that you've done with respect to the IHPC and
11 the IFMP, and I want to do that by bringing up a
12 series of documents and having you identify them
13 for the record. If we could begin with
14 Conservation Coalition document number 4, please.

15 You should have before you now, Mr. Young, a
16 letter dated March 4th, 2009 to Mr. Ryall, and if
17 you can turn very briefly to the second page of
18 that letter, Mr. Lunn, you'll see that there is a
19 signature block indicating that you have signed
20 this; is that right?

21 MR. YOUNG: That's correct.

22 Q If we can now go back to the body of the letter.
23 It appears from this letter that what you're doing
24 in the letter is summarizing some recommendations
25 from the Marine Conservation Caucus for the 2009
26 Integrated Fisheries Management Plan, and I want
27 to just go through some of those with you.

28 The first one, which is in bold says:

29

30 Include Conservation Unit information in 2009
31 salmon Integrated Fisheries Management Plans.

32

33 Is this the first time that you've actually made
34 this recommendation to the IHPC in terms of the
35 advice to the IFMP?

36 MR. YOUNG: No, I believe we've provided that advice
37 pretty much shortly after the WSP came into place,
38 a recommendation that this type of information be
39 included.

40 Q The second recommendation is to:

41

42 Replace failing decision rules for Fraser
43 River sockeye salmon fisheries.

44

45 What are meant by "failing decision rules"?

46 MR. YOUNG: I think I actually have to recall the -- I
47 think that's broadly characterizing some of the

1 challenges we've identified with the FRSSI
2 process, in particular its dependence on past data
3 to predict future events, and not to adequately
4 account for non-stationarity, the fact that salmon
5 productivity is not stationary, which is kind of a
6 requirement for using these models in the way they
7 have.

8 Q All right. We've heard some evidence earlier this
9 week about the Fraser River Sockeye Initiative,
10 and I'm not going to go through that evidence with
11 you. If we can flip the page just briefly,
12 there's a couple of things maybe I can get you to
13 explain. The "Recommendation" in italics at the
14 front, the 75p cumulative probability forecast,
15 what's that recommendation all about?

16 MR. YOUNG: Well, we've raised a number of concerns
17 about the use of forecasting and the potential to
18 essentially fish on the forecast. So, for
19 example, you go into the season with a forecast.
20 You may not actually have a really strong
21 indication of in-season run size, at least some
22 sort of aggregates that may be affected if you
23 begin harvesting and proceed essentially with the
24 hope that the forecast is correct. To be more
25 precautionary, despite our issues with overall
26 using any forecast, we suggested using a more
27 conservative forecast.

28 Q My understanding is that for the 2009 IFMP, the
29 75p probability forecast was actually used for the
30 Early Stuart run, was it not?

31 MR. YOUNG: That's correct.

32 Q And you're advocating it for all the runs, are
33 you?

34 MR. YOUNG: Yes.

35 Q The recommendation that follows, a TAM rule, and
36 we've heard a lot about TAM so you don't need to
37 go into that in any great detail:

38
39 Use a TAM rule for the late run aggregate
40 that includes a no fishing point.

41
42 What's a no fishing point?

43 MR. YOUNG: Well, this is partly related to the issue
44 of failing decision rules. So one actually
45 interesting aspect of FRSSI is this application of
46 a total allowable mortality rule, where at certain
47 low abundances there won't essentially be any

1 fishing or just minimal fishing like test fishing,
2 and then only as the run size increases beyond
3 that point is there gradually increasing harvest
4 rates. The whole FRSSI process was set up to use
5 those rules. It's our view that essentially when
6 they ran into a situation where that model and the
7 TAM rule for it would have suggested that Late run
8 fish should not be harvested at all, or only
9 minimally, instead of addressing that situation
10 and deciding not to fish, they then instead
11 removed the TAM rule and just went with the fixed
12 exploitation rate to allow for continued fishing.

13 Q So you're recommending that for the Late run
14 aggregate that they incorporate a rule that
15 includes a no fishing point, specifically for that
16 Late run.

17 MR. YOUNG: I think, well, firstly, the main issue here
18 is just the inconsistency with the application of
19 decision rules, and in particular one aspect of a
20 decision rule that was somewhat useful, just being
21 abandoned when it was inconvenient. What we're
22 really advocating for isn't necessarily a no
23 fishing point in all cases, but more that a
24 scientifically robust recovery plan is developed
25 for conservation units at risk, and that
26 harvesting is shaped to permit recovery of that
27 stock, and when recovery occurs, then fishing can
28 resume.

29 Q And then the final "Recommendation" in italics is:

30
31 Do NOT use a "10/10" rule...

32
33 We heard a little bit about what a 10/10 rule is,
34 but can you explain for the Commissioner the
35 significance of not using a 10/10 rule?

36 MR. YOUNG: Well, the concern is with using it, and
37 it's mostly about again consistency of the
38 decision rule. So FRSSI lays out a system where
39 they're extending harvest rates for aggregates,
40 which creates some problems on its own, but I
41 won't go into that, that's been discussed. But
42 that the overlap between the aggregates is
43 explicitly considered and the fishing rate is set
44 to deal with that overlap. So if that's the
45 outcome, regardless of the quality of that overall
46 process, which we've expressed concern around, but
47 if that's the outcome, that overlap is considered

1 and it shouldn't result in a situation where when
2 they've run out of TAC or total allowable catch on
3 one aggregate under the rules they've set, the
4 10/10 rule essentially creates a situation where
5 they'll allow some additional incidental harvest
6 above what the TAC might be on that aggregate.

7 We think a couple of problems with that one
8 is you kind of can't have it both ways. So if
9 you're going to manage the overlap explicitly and
10 set a TAC that assumes that Late aggregates are
11 going to be caught up to a certain level, then you
12 have to meet that TAC, and creating these kind of
13 bending of those rules I think is inappropriate.

14 The other challenge is that the 10/10 rule
15 isn't explicitly identified in the IFMP, so it's
16 applied from time to time in-season, but it's not
17 explicitly in the IFMP, which limits the ability
18 of people to review and comment on the fishing
19 plan itself, but also it gives a false impression
20 ultimately of how the fishery is being managed.
21 Because people review the IFMP as though this is
22 exactly what they're doing, but actually they do
23 apply some additional approaches.

24 MR. ROSENBLOOM: Mr. Commissioner, I apologize for
25 interrupting my learned friend. I don't do it
26 very often. My name is Don Rosenbloom. My
27 concern with this evidence as being tendered is
28 that I'm having trouble linking it to the subject
29 matter of the panel, which is relating to
30 consultation. If my friend is tendering this
31 evidence to set out that the David Suzuki
32 Foundation has raised issues that then were not
33 properly handled within the consultative process,
34 or were not responded to within the consultative
35 process, then it's, in my opinion, perfectly
36 appropriate that this line of questioning go on in
37 chief. But if Mr. Young's testimony is to then
38 form part of the evidentiary base of this inquiry
39 as to the proper positions to be taken in respect
40 to harvest management, then I'm concerned about
41 it, or I want it said, yes, this is evidence on
42 harvest management, and then those that might be
43 adverse in interest will have the opportunity to
44 obviously counter in respect to these matters.

45 So again, if it is being led simply to set a
46 foundation for concerns that DSF may have had,
47 raising issues weren't responded to within

1 consultation, I have no problem. But if it's being
2 tendered now as an evidentiary base for issues of
3 harvest management, I do regrettably stand and
4 object. Thank you.

5 MR. LEADEM: I can easily allay Mr. Rosenbloom's fears,
6 because obviously this is a panel on decision-
7 making and I am simply showing what the
8 recommendations were. My next question to him was
9 what happened to those recommendations. And
10 that's simply the reason why I'm going through
11 this. But the recommendations without some
12 content are meaningless. So I need to establish
13 some background in terms of what the
14 recommendations were.

15 MR. ROSENBLOOM: I appreciate that, Mr. Leadem, and so
16 therefore this letter, which I assume is being
17 tendered in evidence, or has already been tendered
18 in evidence?

19 MR. LEADEM: Not yet.

20 MR. ROSENBLOOM: But will be, I assume, will go in not
21 for the substance of the concerns DSF had on
22 harvest management, but rather in respect to the
23 fact that there were concerns of DSF which weren't
24 properly to the -- in the eyes of DSF not properly
25 handled in the consultative process; is that fair
26 to say? I just want that clearly on the record,
27 because there are many counsel not here that might
28 have otherwise been here if they knew where this
29 could possibly be going. Thank you.

30 MR. LEADEM: Well, I don't intend to take my learned
31 friend or anyone else that's not here by surprise.
32 Obviously this document was tendered as a
33 potential exhibit well before these proceedings
34 unfolded. But my purpose in showing this is just
35 simply the consultative process of what happened
36 to these recommendations. We haven't gotten there
37 yet, because that's the next line of questions.
38 And with respect to these recommendations, they
39 are what they are. They're recommendations from
40 the David Suzuki Foundation, and my next question
41 is what happened to them.

42 THE COMMISSIONER: Thank you.

43 MR. LEADEM:

44 Q So, no surprise to you, Mr. Young, my next
45 question is, after making all these
46 recommendations contained in this letter, what, if
47 anything happened to them?

1 MR. YOUNG: I think we may have discussed them. I'm
2 not exactly sure, but we may have discussed them
3 in person with DFO. But, no, they did not result
4 in changes consistent with the recommendations in
5 the IFMP. I should also clarify the letter was
6 signed by myself and, I believe, Ken Wilson, as
7 well, from Watershed Watch, and we were acting on
8 behalf of the Salmon Committee of the Marine
9 Conservation Caucus.

10 MR. LEADEM: Might that be marked as the next exhibit,
11 please.

12 THE REGISTRAR: Exhibit 424.

13
14 EXHIBIT 424: Letter from Ken Wilson, Craig
15 Orr and Jeffery Young to Paul Ryall, dated
16 March 4, 2009
17

18 MR. LEADEM:

19 Q Now, the next piece of correspondence I want to
20 bring to your attention is a letter. It's
21 document number 8 in the Conservation Coalition's
22 book of documents, and it should be a letter dated
23 May 23, 2007. And it appears, if you look again
24 at the signature column on the next page, Mr.
25 Young, it appears that you signed this as a member
26 of the Marine Conservation Caucus.

27 MR. YOUNG: Correct.

28 Q And if we look at the content of it just very
29 briefly, the line at the top indicates it's with
30 respect to the Integrated Fisheries Management
31 Plan, and I'll just read the first sentence:
32

33 The MCC is frustrated by DFO's failure to
34 effectively address a range of conservation
35 and management issues in the 2007 IFMP.
36

37 So basically the content of this letter follows
38 from that concern that you had about conservation
39 measures and management issues?

40 MR. YOUNG: That's correct.

41 MR. LEADEM: Might that be marked as the next exhibit,
42 please.

43 THE REGISTRAR: Exhibit 425.

44
45 EXHIBIT 425: Letter from Marine Conservation
46 Caucus IHPC members to Paul Sprout re IFMP,
47 dated May 23, 2007

1 MR. LEADEM:

2 Q If we can now pull up document number 13. This is
3 a letter dated April 19, 2006, and once again, Mr.
4 Lunn, if you can just show the signature block on
5 the next page. It appears that you've signed
6 this, Mr. Young?

7 MR. YOUNG: That's correct.

8 Q And then if we can go to the "RE:" line on the
9 front page, the "RE:" line indicates that it's the
10 Integrated Harvest Planning Committee process and
11 Cultus negotiating principles. What was going on
12 to cause you to write this letter?

13 MR. YOUNG: It came out of the IHPC process through the
14 subcommittee that it eventually, in my view, moved
15 into a process largely outside the IHPC around
16 looking at ways to alter the harvest rate on
17 Cultus sockeye in return for some actions taken in
18 terms of enhancement and habitat and predator
19 removal -- habitat rehabilitation and predator
20 removal. It raised some concerns, a number of
21 concerns, some of which had to do with the
22 technical nature of the process, whether it was
23 adequately being integrated and discussed within
24 the IHPC, and whether it was appropriate to be
25 looking at an option where increased harvest would
26 be pursued prior to recovery of Cultus sockeye.

27 Q And so that was a topic that was addressed in the
28 IHPC process, was it?

29 MR. YOUNG: No, not fully. I think that the topic of
30 Cultus harvest rates is regularly discussed in the
31 IHPC, but the process by which the outcomes that
32 were undertaken in terms of increased harvest
33 rates on Cultus, along with some different actions
34 taken in and around Cultus Lake, occurred largely
35 outside of an IHPC process, in my view.

36 Q If we can look at -- there's a document appended
37 to this particular letter. It is entitled
38 "Principles of IHPC Negotiation". Firstly tell me
39 what that is, and tell me, then, the context of
40 which this was raised, if any, with respect to the
41 IHPC.

42 MR. YOUNG: Could you repeat the question.

43 Q Yes. I want to know what this is, firstly, and
44 then I'm going to ask you the context of this
45 document within the IHPC.

46 MR. YOUNG: This was essentially the basic points that
47 we were raising about the process that was

1 underway to alter Cultus harvest rates and pursue
2 different actions around Cultus recovery. It has
3 to do a bit with IHPC process and whether it was
4 being undertaken in a way that was consistent with
5 our understanding of how the IHPC process should
6 work. But it fundamentally deals with substantive
7 concerns around how management of Cultus was being
8 undertaken, as well as some concerns about how the
9 original Cultus recovery team developed around the
10 COSEWIC listing had provided the most substantive
11 scientific basis for recovery, and that a process
12 more consistent with that, which would have been
13 the case if Cultus sockeye had been listed under
14 **SARA**, which it was not, would have been
15 undertaken.

16 Q Now, to your knowledge were these principles
17 eventually incorporated into IHPC?

18 MR. YOUNG: No.

19 Q Do you know what, if anything, transpired after
20 you and others like-minded wrote this letter to
21 the fellow members of IHPC?

22 MR. YOUNG: I'm mostly aware of what happened outside
23 of the IHPC process, at least to the extent that I
24 was involved. As I've mentioned, Cultus sockeye
25 has been regularly discussed within different
26 aspects, or different times of the IHPC, although
27 I don't recall specifically discussing these full
28 range of concerns within the IHPC. What I'm most
29 familiar with was discussions that involved some
30 Lower River First Nations, the CSAB, the MCC to an
31 extent, and mostly with key DFO bureaucrats, the
32 DFO office.

33 MR. LEADEM: All right. And I won't take you there,
34 because I think I should be fair to the other
35 participants, that that may be a topic that we
36 come to later. In terms of this letter, though,
37 perhaps at this stage I'll just simply ask that it
38 be marked as an exhibit.

39 THE REGISTRAR: Exhibit number 426.

40
41 EXHIBIT 426: Letter to IHPC members from
42 Pacific Marine Conservation Caucus Salmon
43 Committee members, dated April 19, 2006 re
44 IHPC Process and Cultus Negotiating
45 Principles
46
47

1 MR. LEADEM:

2 Q And the final letter I want to show to you, Mr.
3 Young, is at Tab 15, or document number 15 from
4 the Conservation Coalition's documents. And this
5 is a letter dated June 28, 2005 to the then
6 Minister of Fisheries, Minister Regan. And if we
7 can just look at the signature block very quickly,
8 Mr. Lunn, it appears that you signed this letter,
9 did you?

10 MR. YOUNG: That's correct.

11 Q I just want to read the first sentence, which
12 provides a little bit of the context of the
13 letter, then I want to come back to the question
14 of why you're writing to the Minister directly.
15 You say in the first sentence:

16
17 We are writing to express our concerns about
18 the integrity of the Integrated Harvest
19 Planning Committee (IHPC) process, which was
20 set up by your Department to allow for
21 stakeholder input into fishery management
22 planning in the Pacific Region.
23

24 And then you go on to develop your concerns.

25 So why are you writing directly to the
26 Minister, rather than going through the IHPC
27 process to take your concerns to them directly?

28 MR. YOUNG: I think this was partly due to it was an
29 early phase of the IHPC. I think we were fairly
30 ambitious in our interpretation of what it could
31 provide. We definitely provided input, obviously
32 in this letter and elsewhere, about the need to
33 make it an open and transparent process. But as
34 Brian mentioned, this actually represents the fact
35 that the IHPC certainly didn't remove the letter
36 writing campaigns that generally occur, and this
37 is very much a letter to the Minister. But we're
38 expressing concerns about how the IHPC ultimately
39 wasn't functioning as a process where we could
40 really work through these issues fully, and that
41 there was still all sectors, and us included at
42 this point, were still engaging the Minister
43 directly with our concerns.

44 MR. LEADEM: Could we have this marked as the next
45 exhibit, please.

46 THE REGISTRAR: Exhibit 427.
47

1 EXHIBIT 427: Letter from Pacific Marine
2 Conservation Caucus Salmon Committee to
3 Minister Geoff Regan, dated June 28, 2005
4

5 MR. LEADEM:

6 Q I want to come back to that, whether the process
7 is an open and transparent process. You're
8 writing this letter back in 2005. Firstly let me
9 ask you, have things changed? Is it more of an
10 open and transparent process that unfolds in the
11 IHPC today than it did back in 2005?

12 MR. YOUNG: Well, one of the issues I think we were
13 really highlighting around being open and
14 transparent then was the efforts by the different
15 sectors in terms of what they were advocating for
16 and presenting. I know we've endeavoured to try
17 to share these types of letters with the IHPC,
18 although I don't know that that's always been
19 fully the case, and we often to rely on DFO to re-
20 circulate them. But ultimately as I kind of
21 characterize the IHPC, how it's become more
22 functional is much more of an information and
23 advisory process. I don't think we've reached a
24 point through the IHPC where the actual decision-
25 making that occurs essentially by DFO and the
26 Minister, at the end of the day ultimately is open
27 and transparent.

28 Q And when I say not open and transparent, can you
29 give -- is it still the letter-writing campaign
30 that Mr. Assu referred to that goes on?

31 MR. YOUNG: Yeah, there's that, and then, you know,
32 going back to the examples of our recommendations,
33 the process by which the decisions not to
34 incorporate those recommendations were made aren't
35 clearly expressed to us, what the reason why they
36 were unable to incorporate those changes isn't
37 made open and transparent to us.

38 Q All right. So there's two components that I heard
39 you say: one is the stakeholder is going outside
40 this process, i.e., the letter writing campaign,
41 and the other is the transparency so that the
42 recommendations that are coming from the IHPC, you
43 cannot see how that's reflected in the IFMP. Is
44 that what you're saying?

45 MR. YOUNG: Yeah, that's correct.

46 Q Now, my final question to you is do you have any
47 recommendations for how you can move this process

1 forward, how it can be more transparent, or how it
2 can be more meaningful in the context of what the
3 stakeholders are putting into it.

4 MR. YOUNG: I've mostly made the recommendation, but
5 I'll make it again, and that's that if DFO is much
6 clearer about identifying the objectives it had
7 particularly around conservation, as the
8 fundamental objectives for fisheries management,
9 but also the allocation objectives, it would
10 firstly give us a much clearer measuring stick to
11 evaluate their performance. But also it, you
12 know, where primarily the Wild Salmon Policy, and
13 I think generally an appropriate management
14 approach would be for DFO to clearly provide the
15 information about how well they've been meeting
16 these objectives over time. I think that that
17 actually is kind of the key element of achieving
18 more openness and transparency in this process.

19 MR. LEADEM: Thank you. Those are my questions.

20 MS. BAKER: Thank you, Mr. Commissioner. The next
21 questioner will be Mr. Hickling for -- well, I'll
22 let him identify his group, because I'm drawing a
23 blank.

24 MR. HICKLING: Thank you. I am James Hickling for the
25 Laich-kwil-tach Treaty Society and our standing
26 group is also composed of the Aboriginal
27 Aquaculture Association, and Chief Harold Sewid.

28
29 CROSS-EXAMINATION BY MR. HICKLING:

30
31 Q My questions are mostly for Mr. Assu. You wear
32 several different hats and I want to lead you
33 through a few questions quickly to clarify some
34 points about you and the organizations you
35 represent. So you are an elected Councillor of
36 the We Wai Kai First Nation.

37 MR. ASSU: Yes, that's right.

38 Q And you're the Chair of the A-Tlegay Fisheries
39 Society.

40 MR. ASSU: Yes.

41 Q And the We Wai Kai First Nation is a member of the
42 Laich-kwil-tach Treaty Society?

43 MR. ASSU: Yes, and I'm a Board member.

44 Q You're also an active commercial fisherman?

45 MR. ASSU: Yes.

46 Q And a test fisher.

47 MR. ASSU: Yes.

1 Q And you are also an elected representative for the
2 Area B Seiners Association?
3 MR. ASSU: Yes, that's right.
4 Q A couple of questions of A-Tlegay. Have you used
5 AAROM funds to increase A-Tlegay's technical
6 capacity?
7 MR. ASSU: Yes, we have. We've just in the past year
8 hired on a biologist on a fulltime basis, and one
9 on a halftime basis that actually is from the
10 community but she's still doing her schooling.
11 Q And to establish the representational mandate of
12 A-Tlegay, you obtained band council resolutions
13 from the First Nations that you represent?
14 MR. ASSU: Yes, that's right.
15 Q And are those renewed occasionally?
16 MR. ASSU: Yes. They're generally renewed every second
17 year because of the way the elections within the
18 society are structured.
19 Q And you attend IHPC meetings on behalf of A-
20 Tlegay?
21 MR. ASSU: Yes.
22 Q And you're also a member of the Fraser River
23 Panel. Which organization put your name forward
24 for that position?
25 MR. ASSU: I'm not really too sure. As I recall, I was
26 approached by I believe it was Wayne Saito and
27 Larry Wick at the time, and they had asked if I
28 would, you know, be interested. I don't know how
29 many other names there was put forward, but back
30 then it was a Ministerial appointment, so I'm not
31 sure.
32 Q You're an alternate member of the Fraser River
33 Panel. In practice is there any difference in the
34 role between an alternate and a primary?
35 MR. ASSU: No, there isn't. The Fraser River Panel, at
36 least on the Canadian section, has allowed the
37 alternates and the primary to fully participate in
38 all of the meetings.
39 Q A few questions about the IHPC. Do you know how
40 an organization becomes a member of the IHPC?
41 MR. ASSU: As far as an organization becoming a member,
42 I'm not really too certain how that was decided.
43 I guess, you know, in short, just looking back on
44 when we became members, they were looking for
45 aggregate bodies that were representing certain
46 regions at the time, and from there the mandate,
47 you know, at least for our groups, came within the

1 group to appoint somebody to the IHPC to represent
2 them.
3 Q And this morning Gerry Kristianson seemed to say
4 there's an open-door policy for participation at
5 the IHPC in terms of observers participating in
6 the process. Would you agree with that?
7 MR. ASSU: Yes. Yes, I would.
8 Q Does your First Nation or does A-Tlegay also have
9 bilateral meetings with DFO?
10 MR. ASSU: Yes, we do.
11 Q And do you feel that DFO addresses the concerns
12 raised at those meetings in the IFMP?
13 MR. ASSU: You know, to the best of their ability,
14 those bilateral meetings that we are having with
15 DFO of course revolve around our food fishery in
16 the Johnstone Strait area, and I think, you know,
17 given the constraints, I mean, we have done the
18 best we can in trying to meet the goals within
19 that fishery.
20 Q I've got a couple of questions about technical
21 panels. What's your understanding of the role of
22 the Fraser River Technical Panel?
23 MR. ASSU: The Fraser River Technical Panel is dealing
24 with a broad array of issues, you know, I guess
25 primarily beginning with the Treaty between Canada
26 and U.S., and even further than that with respect
27 to what's going on domestically. And what the
28 Technical Committee does is just bring forward to
29 the Panel and itself recommendations as to how
30 they see the various issues being dealt with.
31 Q Okay. So the Technical Committee is composed of
32 Fisheries biologists?
33 MR. ASSU: Yes.
34 Q Mr. Sakich, do you want to comment on that, the
35 role of the Technical Committee?
36 MR. SAKICH: It's pretty extensive as far as
37 determining basically the aggregate of the runs.
38 Not so much the forecasting, but the actual
39 separating the stocks of fish as they move along.
40 MS. BAKER: Mr. Commissioner, I really don't want to
41 interrupt, and I know the evidence the witnesses
42 are giving is good valid evidence, but we have
43 spent a lot of time in this Inquiry talking about
44 the role of the Fraser River Panel Technical
45 Committee and who's on it and what they do. And I
46 know that the witnesses haven't been here to hear
47 that evidence, but I just would hope we can focus

- 1 on what the issues are for this panel and not
2 review that evidence that's already been dealt
3 with over many days.
- 4 MR. HICKLING: I apologize. I'll move on.
- 5 Q I'd just like to ask Mr. Assu - I was laying a
6 foundation for this, I suppose - if you have any
7 suggestions about how the Technical Committee
8 might be improved.
- 9 MR. ASSU: Well, in my view, because of the makeup of
10 the existing Technical Committee, I would like to
11 see a technical person appointed to that committee
12 that would represent the Marine area. There is
13 that void. There's also the void at the Panel
14 level, for that matter. We don't have a Marine
15 area First Nation representative on the Panel, per
16 se.
- 17 Q We've heard that at the IHPC the technical issues
18 are addressed by DFO and there seems to be some
19 but not total confidence in that arrangement, and
20 I'd just like to ask if you -- if you think that
21 the IHPC might benefit from having its own
22 technical committee.
- 23 MR. ASSU: I guess I'm torn on this one. I guess it
24 could, but then I did listen to the testimony this
25 morning, and I could see where, you know, problems
26 could arise. But there is definitely a need for
27 technical advice within the IHPC to help everybody
28 in the room better understand, you know, what is
29 going on.
- 30 Q Mr. Sakich or Mr. Young, do you have a view on
31 that?
- 32 MR. SAKICH: I think it would be somewhat of a
33 duplicate. I mean, I participate in the Marine
34 area, and the numbers that, you know, the stocks
35 that they're taking apart that are generated by
36 the test fishing, I think it covers it.
- 37 Q Okay. Mr. Assu, in your view, is the Fraser River
38 Panel an intrasectoral process, or is it a
39 bilateral process, or a bit of both?
- 40 MR. ASSU: A bit of both. The representation at the
41 table is related to an individual sector, for
42 sure. And I believe almost all sectors are
43 covered off at that table.
- 44 Q Well, let me put it to you this way. Who do you
45 feel like you represent when you are participating
46 in the Fraser River Panel?
- 47 MR. ASSU: The commercial is definitely my first

1 answer. But I mean at the end of the day, I mean,
2 I have always viewed my participation on the
3 Fraser River Panel as to be a representative for
4 Canada.

5 Q For Canada.

6 MR. ASSU: Yes.

7 Q And you have been appointed to the Panel. Who
8 makes that appointment?

9 MR. ASSU: At the outset the Minister used to, and then
10 I think just in the past two years it's the RDG
11 now makes that appointment.

12 Q Okay. I've just got one more question. You
13 mentioned that the Early Summer and the Cultus
14 Lake escapement and exploitation rates are
15 recurring issues at the IHPC.

16 MR. ASSU: Yes.

17 Q And is it the same at the Fraser River Panel?

18 MR. ASSU: Oh, definitely, yes.

19 Q And why is that?

20 MR. ASSU: Well, because all of the fisheries that are
21 being managed to whatever has been put into the
22 IFMP, you know, prior to the actual season, and
23 whatever that exploitation rate, the technical
24 committee is trying to work through how best to
25 design a fishery, if at all, if it's even
26 possible. And that's why I say, you know,
27 earlier, it's not just the domestic issue. The
28 issue really lays in between us and the United
29 States. But at the end of the day, I don't know,
30 I personally feel the burden of conservation
31 always seems to fall on Canada more so than it
32 does the U.S.

33 MR. HICKLING: Thank you. Those are my questions.

34 MS. BAKER: Thank you. The next questioner will be
35 Canada.

36 MR. MacAULAY: Thank you, Mr. Commissioner. Again,
37 Hugh MacAulay for the Government of Canada. I
38 will be brief.

39

40 CROSS-EXAMINATION BY MR. MacAULAY:

41

42 Q Now, Mr. Young, I just have a couple of questions
43 about the Marine Conservation Caucus. Starting
44 with if you could just describe briefly the origin
45 of the MCC.

46 MR. YOUNG: Well, firstly I should say I wasn't
47 involved during the period of the origin, so

1 actually I hesitate to really provide much comment
2 on that.

3 Q Could you describe its role in consultative
4 processes, then?

5 MR. YOUNG: I see it and my understanding of it is that
6 it's primarily a way for DFO to gain access to
7 some perspectives from the marine conservation
8 community, through kind of a structured forum.
9 And one of its most functional elements is to
10 provide representation at certain advisory
11 processes, being the IHPC, not just salmon but
12 other species as well, or other fisheries as well,
13 being kind of the prime example.

14 Q Thank you, that's helpful. Mr. Lunn, if you could
15 pull up document number 3 from Canada's list.
16 This is just a description of the Marine
17 Conservation Caucus from DFO's website. And, Mr.
18 Young, I'm just hoping that you can, when we see
19 it, just confirm that the information is accurate
20 and specifically the information about the
21 environmental groups that are represented near the
22 bottom of that page, and carrying on to the second
23 page.

24 MR. YOUNG: Can you repeat the question?

25 Q Sorry, is that current information, are those
26 groups still represented?

27 MR. YOUNG: No, that's not up-to-date, actually.

28 Q Are there any changes that you can tell us about?

29 MR. YOUNG: I believe Ecotrust Canada is no longer a
30 member. I believe we've added SkeenaWild
31 Conservation Trust, and the Executive Committee
32 has changed as well. I believe Craig Orr is the
33 Acting Chair, remains as Acting Chair, but I don't
34 recall exactly how the rest of the Executive
35 Committee is structured right now.

36 Q Thank you, that's very helpful. I was proposing
37 to mark that as an exhibit, but I see that it's
38 requiring some corrections, so I'll decline to do
39 that, I think.

40 But my question, Mr. Young, is simply in your
41 view do you see that the Marine Conservation
42 Caucus provides an effective means for
43 environmental groups to provide their input to DFO
44 on Fraser sockeye issues?

45 MR. YOUNG: I think it provides a useful means,
46 particularly in relation to these advisory
47 processes. We're very careful to identify that we

1 don't represent all environmental interests, even
2 all marine conservation interests within the
3 Province. So I think it's a useful mechanism, but
4 not a complete one.

5 Q Thank you, that's helpful. Mr. Sakich, just a
6 couple of questions in a similar vein, with
7 respect to the Commercial Salmon Advisory Board,
8 and I'd ask that Mr. Lunn pull document number 4
9 on Canada's list of documents. These are, Mr.
10 Sakich, just the terms of reference for the CSAB
11 and the Area Harvest Committees. I guess the
12 threshold question is are these current, as far as
13 you're aware, and please take your time to take a
14 look at them.

15 MR. SAKICH: I don't really see any names on here, if
16 that's what we're looking for.

17 Q There are names at the very bottom, including your
18 own.

19 MR. SAKICH: Well, you'll have to get her down there.
20 No, this is outdated now.

21 Q In terms of the names on --

22 MR. SAKICH: Of the names, yes.

23 Q All right.

24 MR. SAKICH: We have currently in all of the minutes
25 that go out after the meetings and any of the
26 mail-outs I've seen now have the current list of
27 participants.

28 Q Can we --

29 MR. SAKICH: They keep adjusting it.

30 Q Thank you. Sorry to interrupt. Mr. Lunn, can you
31 scroll back to the first page under the heading
32 "Mandate". Mr. Sakich, I'm hopeful that this
33 hasn't changed, the "Mandate" of the CSAB
34 described as providing advice on policy matters,
35 and the last bullet, serving as a consultative
36 body. Is it fair to say that in general these
37 terms of reference describe the role of the CSAB
38 and the relationship between the Area Harvest
39 Committees and the CSAB?

40 MR. SAKICH: That's all intact the way it was
41 originally put together.

42 Q Thank you. And in your view does the CSAB provide
43 an effective means through which the commercial
44 sector provides its advice to DFO with respect to
45 Fraser sockeye fisheries?

46 MR. SAKICH: I guess it doesn't really get overly
47 involved like in Fraser River sockeye fisheries,

1 you know, in that sort of talk around those sort
2 of things. That takes place in other, you know,
3 in their management meetings amongst the, you
4 know, the different sectors. I would say the
5 closest thing we came to trying to create policy
6 was when we went through the Score process, and we
7 didn't quite make it there, but that's not the end
8 of it, either, because that's very useful stuff
9 that was put together that will fit in the future.
10 So it was still a good exercise, even though it
11 didn't create a change.

12 Q Just for the benefit of Mr. Commissioner and the
13 rest of us can you describe what the Score process
14 is that you're referring to?

15 MR. SAKICH: That's when we picked up the Pierce McRae,
16 their book called *Trees and Transitions*, and, you
17 know tried to move the fishery forward into share-
18 based quota, whatever, sort of however you want to
19 use that. And then move into the integrated
20 fisheries with the First Nations and various
21 different changes. Some of it is implemented,
22 Area B, Area F, Area H, they are under a new
23 management system. It's not permanent. It's
24 still a pilot, Demonstration Fisheries it's
25 called. Some of the other folks haven't got that
26 far yet. I think they will come on board as time
27 goes on. But the exercise that was done, that
28 evaluation with Scores is useful - useful - even
29 though we weren't able to make a policy out of
30 that, that, I think, part's irrelevant. The
31 work's been done.

32 MR. MacAULAY: Thank you. And thank you, Mr.
33 Commissioner, those are my questions.

34 MS. BAKER: Mr. MacAulay, were you going to mark the
35 CSAB Terms of Reference?

36 MR. MacAULAY: Given that they are apparently
37 inaccurate, I think perhaps in the Commercial
38 Fishing hearings we can find and produce and mark
39 as an exhibit the accurate version.

40 MS. BAKER: Thank you. The questioner is the Province
41 of B.C.

42 MR. PROWSE: Mr. Lunn, I forwarded to the Commissioner
43 and it was circulated to counsel, I believe, on
44 the 7th of February, two documents to do with the
45 Monitoring and Compliance Panel. Could you bring
46 those up, please.

47 THE REGISTRAR: Also announce your name, please.

1 MR. PROWSE: Cliff Prowse for the Province of British
2 Columbia.
3 MR. LUNN: Would you like them both up?
4 MR. PROWSE: Sorry, if you could start perhaps with the
5 *Charting our Course, Fishery Monitoring in the*
6 *Pacific Region* by the Integrated Salmon Dialogue
7 Forum. Yes.
8

9 CROSS-EXAMINATION BY MR. PROWSE:

10
11 Q So, Mr. Sakich, you participated, as I think
12 you've told the Commissioner today, in the
13 Integrated Salmon Dialogue Forum.

14 MR. SAKICH: Yes, that's right, currently the Chair.

15 Q And sorry, you are the Chair of the M&C Panel?

16 MR. SAKICH: Currently, yes.

17 Q All right. And this is a draft report that I was
18 referred to at the end of the day on February 3rd
19 when Mr. Saito was giving evidence. And if you
20 could look at the second page, Mr. Lunn. And so
21 there's a "Foreword" to the second page, and that
22 was by yourself as the M&C Panel Chair?

23 MR. SAKICH: I didn't write it myself, it's worked on
24 as the whole group and then it's edited out. But
25 everybody has input into it.

26 Q All right. But the Peter Sakich that's referred
27 to there is you, is it, sir?

28 MR. SAKICH: That's the one.

29 Q And so you and the group worked on this paper with
30 Mr. Saito, and also with Colin Masson of the
31 Department of Fisheries and Oceans; is that
32 correct?

33 MR. SAKICH: He was there for a bit of it. Basically
34 he was there for some of it. Basically it was all
35 the members of the -- of the Monitoring Panel.

36 Q All right. And, Mr. Lunn, if you could turn to
37 the 17th page of that document. Yes, that's the
38 one I'm looking for. Thank you, Mr. Lunn.

39 So the members of the panel are shown, Mr.
40 Sakich, in the block at the upper half of the
41 page.

42 MR. SAKICH: Those are current.

43 Q All right. And are those the persons that worked
44 on this with you in 2010?

45 MR. SAKICH: Yes.

46 Q All right. and I understand that --

47 MR. SAKICH: Not Christopher Bos, he was the only one

1 that wasn't around then.

2 Q All right. And I understand that this was
3 presented, that you went to, I think, an IHPC
4 meeting where this was presented; is that correct?

5 MR. SAKICH: That's correct.

6 Q And that was around November of 2010
7 approximately?

8 MR. SAKICH: About right. I can look it up, but around
9 there.

10 MR. PROWSE: All right. So, Mr. Commissioner, might
11 this be marked as the next exhibit.

12 THE REGISTRAR: Exhibit 428.

13

14 EXHIBIT 428: Fishery Monitoring in the
15 Pacific Region - Charting our Course,
16 Strategy for Improved Confidence and Support,
17 Draft October 2010 (M&C Panel)

18

19 MR. PROWSE:

20 Q Mr. Sakich, in the Foreword then on the second
21 page again, some of the words that are talked
22 about are "mutual trust", "engaging all sectors",
23 "collective confidence" and "starting to get it
24 right". Can you tell the Commissioner what in
25 your view the sort of aim of this document was?

26 MR. SAKICH: Well, the whole thing was -- is, I guess,
27 to sort of stop the fighting that's taking place
28 between the folks wanting to believe each other's
29 numbers. And of course, it's a conservation
30 issue, and everything, knowing what is coming out
31 of the water should be the primary start of
32 anything around salmon, just you have to know what
33 is being removed. And on top of that, there is
34 the argument that goes on that one sector thinks
35 the other is getting more than they should and
36 they don't want to believe each other's numbers,
37 so the only way you can get away from that is
38 everybody produces them.

39 Q All right. And you seem to me to be a pretty
40 direct talker. I take it you've probably had some
41 pretty interesting discussions over the months on
42 this topic, did you, around this table?

43 MR. SAKICH: This table here?

44 Q No, around the table of the M&C Panel.

45 MR. SAKICH: Oh, that took about a year and a half to
46 get that together.

47 Q All right. And Mr. Lunn, can you now bring

1 forward, please, the Strategic Framework for
2 Fishery Monitoring document. So, Mr. Sakich, this
3 is a document dated November 2010, and this is a
4 document that was done by, I believe, DFO and I
5 think probably Mr. Masson was the person who
6 attended the IHPC meeting that you attended?

7 MR. SAKICH: That's right.

8 Q All right. And so you can identify that as the
9 document that was discussed at that meeting that
10 you attended with Mr. Masson?

11 MR. SAKICH: Yes.

12 Q And, Mr. Lunn, if you go to page 6 of the
13 document, at footnote 15, Mr. Sakich, there's a
14 reference made to the *Charting our Course*
15 document. So the *Charting our Course* document was
16 referred to by the DFO in their document.

17 MR. SAKICH: That's right.

18 Q And likewise, Mr. Lunn, if you can turn to the
19 second-last page, which in my copy is marked 21,
20 it's the "References" section. Yes. So again at
21 the bottom of that page, Mr. Sakich, again there's
22 a reference to the *Charting our Course* document.
23 And I gather it probably went through a number of
24 drafts, did it, the *Charting our Course* document?

25 MR. SAKICH: Yes, it did.

26 MR. PROWSE: Yes. All right. Mr. Commissioner, might
27 this be marked the next exhibit, please.

28 THE REGISTRAR: Exhibit 429.

29
30 EXHIBIT 429: Strategic Framework for Fishery
31 Monitoring and Catch Reporting in the Pacific
32 Fisheries, Draft November 2010 (DFO)
33

34 MR. PROWSE: So just, Mr. Commissioner, for the
35 assistance of you and counsel, this document was
36 referred to in the earlier proceedings, which I
37 think were on February 3rd at pages 98 and 99.

38 And those are my questions, Mr. Commissioner.

39 MS. BAKER: Mr. Commissioner, as I understand it, we
40 have two more counsel who would be asking
41 questions of these witnesses. Would you like to
42 take a break now and then bring them back, or
43 would you like to just press through? I don't
44 know...

45 MR. ROSENBLOOM: Ms. Baker, I can inform you I am
46 probably approximately ten minutes. I understand
47 other counsel are approximately ten minutes, so

1 that would make cumulatively 20 minutes. So I'm
2 in the hands of the Commissioner --

3 MS. BAKER: Yes.

4 MR. ROSENBLOOM: -- whether to take the break, or to
5 shoot right through.

6 THE COMMISSIONER: I again would ask court staff
7 whether they are comfortable sitting until 3:30
8 particularly, or not.

9 MS. BAKER: If I can throw one other thing in the mix,
10 Mr. Sakich has to leave at 3:45, so...

11 THE COMMISSIONER: Okay. Well, I think then why don't
12 we try to press through. If we've got 20 minutes
13 to go, let's try and do it.

14

15 CROSS-EXAMINATION BY MR. ROSENBLOOM:

16

17 Q My first area of cross-examination is directed to
18 Mr. Assu, and I wish Ms. Baker to indicate to me,
19 as I enter into this little area, if it has
20 already been covered in the hearing in days that I
21 was not present, please speak up and I will
22 obviously live with that intervention and won't
23 pursue it.

24 Mr. Assu, you have described your membership
25 in various organizations and your role at the
26 Fraser River Panel. I have a few questions for
27 you in respect to First Nation participation in
28 the commercial fishery, and this is an area where
29 I'm not sure whether there's already been evidence
30 given. There is a body known as the Native
31 Brother hood of British Columbia, correct?

32 MR. ASSU: Yes.

33 Q And you are a member of that body?

34 MR. ASSU: Yes, I am.

35 Q And there also is an association, as I understand
36 it, called the First Nation Commercial Vessel
37 Owners Association?

38 MR. ASSU: Yes, there is.

39 Q Yes. And can you tell me, as we talk, for
40 example, about bilateral meetings of interest
41 groups, stakeholders with DFO, are there bilateral
42 meetings between DFO and those two bodies just
43 mentioned?

44 MR. ASSU: I would say yes, at times there may be, but
45 I'm not positive.

46 Q You don't sit on an executive position on either
47 of those bodies?

1 MR. ASSU: No, I don't.

2 Q And can you give us some evidence - and I
3 appreciate you didn't come here prepared for this,
4 and if you don't have the answers, maybe we'll
5 pursue it through other witnesses - of the extent
6 of Native participation, First Nation
7 participation in the commercial fishery? For
8 example, the clients I represent, Area B Seiner,
9 of which you are a participant, a licence holder,
10 do you know how many of the Area B licenses are
11 First Nations licenses, approximately?

12 MR. ASSU: I do not. I would only be guessing to say
13 20 percent, but I really don't know the answer.

14 Q All right. Well, I can direct that to my client,
15 Mr. Ashton, when he testifies. And I assume you
16 also would have little information about the First
17 Nation licence holders within my other client,
18 Area D Gillnet?

19 MR. ASSU: No, I don't know.

20 Q Yes. But it's fair to say you come from the Cape
21 Mudge area, the Campbell River/Cape Mudge area,
22 and many First Nation people are participating in
23 the commercial fishery; is that fair to say?

24 MR. ASSU: Yes, that's right.

25 Q And many of those involved, their families have
26 been involved in the commercial fishery for many,
27 many years?

28 MR. ASSU: Yes. And if I could just add, too, like the
29 high level of participation in our area is, in a
30 large part, because of the number of operators
31 that we have running vessels for Canadian fish.
32 It used to be B.C. Packers and whatnot. We do
33 have a large contingent of skippers operating, you
34 know, outside of being private vessel owners. I
35 mean, we do have --

36 Q Yes.

37 MR. ASSU: Yeah.

38 Q Meaning participating in the commercial fishery,
39 but not as license holders; is that fair to say,
40 or did I misunderstand?

41 MR. ASSU: No, that's correct, and that's why I'm
42 calling them operators. They're operating
43 somebody else's vessel for them.

44 Q Yes. Are you able to assist us and inform us, who
45 best could provide this commission with the
46 evidence of the extent of First Nation
47 participation in the commercial fishery? Would it

1 be the two associations that I represent, or would
2 DFO hold that information?

3 MR. ASSU: Well, Area B does have a lot of the
4 information, you know, on that, but I guess
5 probably the one that would probably know the best
6 would be the Native Brotherhood.

7 Q Yes, thank you. Thank you very much for that.
8 I'd like to move briefly into another area.

9 Mr. Sakich, in particular, you were speaking
10 of the challenges within the Integrated Harvest
11 Planning Committee, because there were so many
12 interests with such a wide spectrum of interests
13 from north coast down to south coast areas, if I
14 understood your testimony. I didn't actually
15 appreciate this - again, everybody else probably
16 did - within the IHPC, as you sit down and you
17 deliberate or discuss things, you are discussing
18 everything from the Nass River to the Skeena to
19 the Fraser to everything in between; is that fair
20 to say?

21 MR. SAKICH: Well I guess anything could be covered in
22 there, and it even goes as far up as the Babine.

23 Q Yes. And so is it fair to say if you happen to be
24 a representative, let's say, with a southern
25 licence, be it seine or gillnet or whatever it
26 might be, you have as equal an opportunity to
27 participate in issues regarding the Nass or the
28 Skeena, everybody is treated equally, whether
29 their interest is in one area or another?

30 MR. SAKICH: That's the point I was trying to make.

31 Q And when you say that was the point you were
32 trying to make, what are you saying? Are you
33 saying that you find it cumbersome and distracting
34 that there are people speaking up at this IHPC
35 that truly don't have an interest in the matters
36 because it's not their geography?

37 MR. SAKICH: Well it may be the other way around, too;
38 it may be you don't have an interest in their
39 matters, so they don't have an interest in your
40 matters. It's very diverse. In fact, I don't
41 know how you would pull that together, especially
42 if you're going to run under consensus and expect
43 to get consensus over issues that some people,
44 fair enough, because we wouldn't know anything
45 about some others in there. So it's just an odd
46 sort of way of doing business.

47 Q Well, could I ask you this again, with total

1 ignorance, why is this Integrated Harvest Planning
2 Committee given such a wide geographical mandate?
3 Is it because it is the nature of the beast, it
4 has to be that way, or could you Balkanize the
5 committee into a series of committees, one
6 covering the north coast, Skeena, Nass; one
7 covering Bella Coola down, whatever it might be,
8 or does that not work?
9 MR. SAKICH: You do have the north/south breakouts, as
10 they're called, and you actually have a separate
11 meeting in the north, sometimes, separate meeting
12 in the south, but then you do bring them all back
13 in the room together again at times.
14 Q Why, from your perspective, are they brought back
15 into the room again? In other words, is it
16 totally necessary that there be the, what I'll
17 call, the wide umbrella of the whole coast, for
18 this committee, or could there be, out of this
19 process, recommendations that the committees be
20 broken down into geographical areas?
21 MR. SAKICH: Well, basically, they are broken down in
22 geographical areas, but you will meet as full,
23 both north and south, and that can get a bit, in
24 the whole room setting, it can get a little bit
25 wandering.
26 Q And because of your observations, would you
27 recommend any process for this, other than what
28 you're facing; in other words, would you make
29 recommendation that the two bodies not meet
30 together, that it's not necessary?
31 MR. SAKICH: No, I wouldn't say that, but I don't know
32 where to start with that one, that's how come I
33 can't give you a straight answer.
34 Q But you have seen, have you, during your days,
35 what I'll call input from parties that truly
36 didn't have an interest in the decisions that were
37 being discussed; is that fair to say?
38 MR. SAKICH: Not necessarily that way. What happens
39 is, is it's just your amount of time, like what
40 are you going to cover, like just how are you
41 going to do it? You meet as a full body a couple
42 of times a year for roughly a day and a half per
43 meeting, and you're expected to cover everybody's
44 ground. That might be a key to it. And what
45 you're covering is another issue.
46 Q And what do you mean by that?
47 MR. SAKICH: Well, you shouldn't be talking about

1 allocation in there; that should be a separate
2 forum somewhere else. A lot of different policy
3 items that people would like to get into, well,
4 you're not going to open them up there, so there
5 goes some more time. On and on it goes like that,
6 so it may be if the mandate, what it deals with,
7 was cleared up a little bit, then it might start
8 working a little easier for itself.

9 Q I appreciate you speak only for yourself, but
10 would you say it is a common complaint of many of
11 your fellow members, as you've just expressed it?

12 MR. SAKICH: I think so.

13 Q Thank you.

14 MR. SAKICH: It's pretty broad.

15 Q I wonder whether Mr. Jefferies (sic) or Mr. Assu
16 have any comment on this question?

17 MR. YOUNG: Really quickly, I do think that the way
18 north and south coast issues get broken out is
19 relatively effective at ensuring that topics of
20 interest to a specific geographic region are
21 carried out with the people with that interest and
22 that I do think there is value in having the full
23 IHPC deal with issues that relate to everyone at
24 the same time. I think that that issue is not
25 terribly handled.

26 Q Not terribly what?

27 MR. YOUNG: I think it's handled okay.

28 Q Thank you.

29 MR. YOUNG: Yeah.

30 Q Mr. Assu?

31 MR. ASSU: I really don't have much to add to that,
32 except to say that I believe the reason both
33 processes, I guess, were integrated is because of
34 the way the licensing system now operates.

35 Q Well, wouldn't one maybe suggest that because it
36 has now been a regionalized licensing system it
37 would give the opportunity to break this down
38 into --

39 MR. ASSU: Absolutely, and that's what, I guess, I'm
40 getting at.

41 Q Yes. And so that would lead you to believe that
42 maybe there should be a more separate -- that the
43 committee should be more separate between north
44 and south on a lot of its processes; is that not
45 fair to say?

46 MR. ASSU: Yes.

47 Q Thank you. My last brief area is in respect to

1 in-season changes. And commission counsel, in her
2 examination in chief, asked a question, and again,
3 I may have just misunderstood it, but I have been
4 led to believe throughout this hearing that the
5 IHPC does not deal with in-season management
6 issues whatsoever; is that not correct? And
7 you're nodding, Mr. Jeffery (sic), in the
8 affirmative?

9 MR. YOUNG: Yes, that's my understanding, yes.

10 Q All right. But commission counsel did ask
11 questions about in-season changes, and at one
12 point - and forgive me, I don't have a transcript
13 yet - I thought that one of you spoke about how
14 difficult it was to change the IFMP in-season,
15 that there was a lack of flexibility. Now, do any
16 of you -- I heard that from one of you, I believe.
17 Is that the position of any of you, that there are
18 problems and flexibility in respect to changes of
19 the IFMP?

20 MR. ASSU: You probably heard that from me, when I had
21 mentioned that earlier, and I hadn't realized that
22 there was actually a ministerial change in this
23 past season.

24 Q Putting aside whether there's a ministerial -- a
25 requirement for ministerial approval, do you
26 believe that because the IFMP is a product of a
27 consultative process, meeting after meeting, that
28 that, in itself, has led to some inflexibility in
29 terms of DFO being able to make decisions in-
30 season that might change the IFMP?

31 MR. ASSU: Yes.

32 Q Okay, I want to explore that with you. Have you
33 examples to illustrate that inflexibility and how
34 it's been to the prejudice of one stakeholder or
35 another?

36 MR. ASSU: I can't remember exactly what it was we were
37 dealing with in this one season, but I know that
38 at the time when I was involved in the discussion,
39 the simple answer to us from DFO was that, "Nobody
40 anticipated something like this happening, it's
41 not included in the IFMP and therefore it just
42 simply can't be done." And I really just can't
43 remember what the, you know, exact circumstance
44 was, but, I mean, I guess, in short, I mean, all
45 I'm saying is, if it's not included in the IFMP it
46 probably cannot be done.

47 Q That's your perception of the inflexibility?

1 MR. ASSU: It was, up until I heard what I did this
2 morning.

3 Q In the sense of what you heard this morning is
4 there is a safety valve for ministerial approval
5 to change the plan; is that what you're speaking
6 of?

7 MR. ASSU: Yes, that's right.

8 Q But other than that, it's been your perception
9 that there was an inability by DFO to really
10 change things midstream, if I can put it that way?

11 MR. ASSU: Yes. Yes, that's right.

12 Q Any comments from the other two panellists?

13 MR. YOUNG: I might just add that I think if we had
14 really clear objectives and really well-designed
15 decision roles, the need for changes to the IFMP,
16 itself, in-season may be very rare. I don't think
17 it's appropriate to build flexibility in where
18 it's about shifting meeting those objectives or
19 the priority of the objectives, but I do think
20 it's absolutely reasonable to allow for
21 flexibility in terms of how we execute the fishery
22 within those boundaries.

23 Q Mr. Sakich?

24 MR. SAKICH: Yeah, I'll go back to what I said earlier.
25 It works both ways. For instance, using the
26 example if you put a harvest rate in there and you
27 can't change that, even though you have quite a
28 surplus showing up on top of that, then what
29 happens on the other side of the coin when
30 something else falls off? It could be the Chinook
31 fishery; it could be in something other than
32 sockeye. See, they all apply the same way in that
33 book. They don't distinguish the species of fish,
34 when it comes to this. So I would use an example.
35 I sit on the Cowichan Round Table. Two years ago
36 is the lowest return of Chinook in history coming
37 in that place. Now, I don't know what's in the
38 IFMP about Chinook; I didn't look, it wasn't one
39 of my interested parts, but it might be
40 interesting to look in there to see what was said
41 about south coast Chinook. And I think that is
42 what prompted, now, with this new Chinook recovery
43 process taking place and everything. But did the
44 IFMP kept saying you could keep fishing those
45 fish? I don't know. That would be a good place
46 to look.

47 MR. ROSENBLOOM: Thank you very much. Those are my

1 questions, thank you.

2 THE COMMISSIONER: Ms. Pence, I think Mr. Rosenbloom
3 has left you six minutes, so if you can do it...?

4 MS. PENCE: I'll do my best. Leah Pence, for the First
5 Nations Coalition.

6
7 CROSS-EXAMINATION BY MS. PENCE:

8
9 Q Mr. Young, this morning you said that First
10 Nations participation and representation on the
11 IHPC was less than ideal, and my follow-up
12 question for you is: What's the implication to
13 the IHPC process arising from this insufficiency
14 of First Nations participation?

15 MR. YOUNG: I think there's two things; the first is
16 that the level of importance and the diversity of
17 stakeholders within the First Nations community
18 has to be adequately represented for the IHPC to
19 have a level of representation to have a full
20 discussion of the issues in how different
21 stakeholders are affected.

22 I also think that without that there, there's
23 a stronger need or interest of participants in the
24 IHPC to go outside of the process to try to make
25 changes to fishing plans, understanding that
26 that's where First Nations are.

27 Q Thank you. Do any of the other panel members have
28 anything to add on that point? No one is saying
29 anything, so I'll move to my next question.

30 When Mr. Matthew was here on February 1st, in
31 response to a question from Ms. Baker about
32 whether he thought the IHPC was too heavily
33 weighted to harvest, he said this, and I'm just
34 going to quote from the transcript of that day,
35 and it's on page 12, at line 40. So in response to
36 that question, Mr. Matthew said:

37
38 I do. I don't think you can separate
39 conservation from harvest, and as I mentioned
40 earlier, most of the discussion at the IHPC
41 is about harvesting and harvest
42 opportunities. I don't hear a lot of the
43 discussion being about how the sectors are
44 going to develop conservation plans or
45 measures within their own groups to protect
46 stocks of concern.

1 And my question for the panel is this: Would you
2 agree with me and with Mr. Matthew, that those at
3 the IHPC have a responsibility to discuss and to
4 consider conservation when they're discussing
5 harvest?

6 MR. ASSU: Well, maybe I'll start. Yeah, there is a
7 lot of discussion around harvest planning at the
8 IHPC, and primarily it becomes because of the
9 constraints that are already known. So really
10 what you're trying to do is figure out how you're
11 going to fit into these bookends. And, you know,
12 that really is, in my view, what may appear to be
13 a lot of talk about harvest, but you are trying to
14 -- I mean, that's what the IHPC is intended for,
15 is fisheries planning, and it's those constraints
16 that are already well known that drive that
17 discussion.

18 MR. YOUNG: I would say I agree with Mr. Matthew in
19 full. I would suggest that some of my
20 recommendations around clarity of objectives is
21 about the need to actually better define those
22 constraints and bookends, better clarify exactly
23 what objectives we have for conservation units,
24 and, in particular, conservation units of concern.

25 Q Mr. Sakich, do you have anything to add?

26 MR. SAKICH: Yes, this is something I brought up at the
27 Salmon Dialogue Forum, that a lot of it doesn't
28 mean anything unless you have a high regime of
29 sampling. You know, you're talking about what
30 you're going to conserve and how you're going to
31 conserve it, and all those ways of doing that, and
32 until you apply the mechanism that enables you to
33 do that one way or the other at a higher level
34 than it is in some places now, it's all for
35 naught.

36 Q So am I understanding that that's kind of a call
37 for increased stock assessment measures, so that
38 you can inform these types of discussions?

39 MR. SAKICH: I would say so, yes. That's who does all
40 the head recoveries and all these sort of things.

41 Q Thank you. My last area of questions is on the
42 theme that's been emerging throughout the harvest
43 management hearings, and that's the theme of the
44 challenge in communicating scientific and
45 technical information to a wide range of people
46 who are involved in advising DFO and in making
47 decisions related to the fisheries.

1 And I wanted to take advantage of the fact
2 that Mr. Young is here and that you do work with
3 an organization, David Suzuki Foundation, that
4 communicates regularly with the public on issues
5 that are very scientific. And I see, from your
6 C.V., that you also have experience in being a
7 teaching assistant, and therefore communicating
8 this type of information.

9 And I'm wondering whether you would agree
10 with me that in order for people to make informed
11 decisions about fisheries and fishing plans, that
12 they would need to understand, first, the
13 information on which this is based, including the
14 models and the forecasting methods. Do you agree
15 that?

16 MR. YOUNG: I would agree with that.

17 Q And would you agree that they need to then clearly
18 understand the implications of the weighing and
19 balancing that they're being asked to do in some
20 of the forums, like the IHPC?

21 MR. YOUNG: Yes, but I could add to that as well.

22 Q Please do.

23 MR. YOUNG: I'd say that, going back to my point about
24 clear objectives, the Wild Salmon Policy and the
25 objective-setting within it, is really about
26 laying out a framework that we can then measure
27 ourselves against. And having that framework,
28 that baseline, that context, I think, would
29 provide a much easier way for DFO and for
30 participants -- for DFO to communicate to
31 participants to understand how they're being
32 affected or whether DFO is doing the job that
33 they've been tasked to do.

34 I think in terms of DFO's ability to
35 communicate, I think there could definitely be
36 improvements in terms of how they take fairly
37 technical information and distil it down for users
38 in addition to appropriately contextualizing it
39 within their own objectives or the objectives of
40 the participants. And as one example, I think
41 facilitation within the IHPC perhaps could be
42 improved or could highlight that need more clearly
43 and ensure that there's the right kind of capacity
44 or requirements within DFO, or within the process
45 to ensure better communication.

46 Q Do you have any other strategies that you may have
47 learnt from your work with David Suzuki on how to

1 work on communicating not only the objectives that
2 I'm hearing from you, and the performance
3 measures, but also just essentially what is very
4 difficult technical information, specific
5 strategies that the commissioner might find useful
6 in hearing?

7 MR. YOUNG: I don't know that I have more than what
8 I've said, but I do think there's -- firstly, that
9 is one of the values of the IHPC, is having
10 multiple interests in the room and going through
11 a process where we get to hear from the different
12 groups in that room how they interpret the
13 information, what they see as their issues, and
14 what information they can provide from where they
15 are. It's another example where greater First
16 Nations representation would allow us to hear more
17 of those voices and more of those perspectives.

18 MS. PENCE: Thank you. Before I sit down, I just did
19 want to express from Ms. Gaertner her appreciation
20 to commission counsel and to all the counsel in
21 the room, and the witnesses, for the last four
22 weeks of harvest management hearings. So I offer
23 that gratitude from Ms. Gaertner and from myself.
24 Those are my questions.

25 Sorry, Mr. Sakich, did you have something to
26 add?

27 MR. SAKICH: Yeah, I'll just correct one thing a little
28 bit. When I talk about the level of sampling,
29 sockeye is sampled to death. It is high on the
30 list. But it's anything else around it that can
31 create problems for you.

32 MS. PENCE: Thank you.

33 MS. BAKER: Thank you. Mr. Leadem, did you have
34 anything as re-exam?

35 MR. LEADEM: (Inaudible - away from microphone) Dr.
36 Walters from (inaudible). I think we're at the
37 end of a very long and involved process, and I
38 want to thank commission counsel for a very fine
39 job.

40 MS. BAKER: Well, thank you. I think that's the end of
41 the evidence from this panel. Thank you very much
42 for giving us your time, today.

43 THE COMMISSIONER: Yes, I'd like to add my voice to
44 that of commission counsel, to the members of the
45 panel, thank you very much for attending today.
46 And Mr. Assu, you've been here more than once, so
47 again, thank you for being willing to come back on

1 this panel as well. Thank you very much. I'm
2 sorry, Ms. Baker?

3 MS. BAKER: I was just going to say that we have -- I
4 think the only outstanding witness that we didn't
5 manage to squeeze in is Paul Ryall, who needs to
6 come back and talk about FRSSI, and needs to come
7 back and talk about this process and -- I'm being
8 whispered something here. And you will have seen
9 on our original schedule that Rob Morley was
10 scheduled to talk about stock assessment and we've
11 -- the evidence that we were going to call from
12 him on stock assessment came out during his other
13 testimony, so we're not going to have a separate
14 hearing with him to deal with that.

15 So we have tentatively got March 16 as a day
16 for Mr. Ryall, so if people could make a note of
17 that, and there will be more information coming
18 out on the hearings planned, by email this evening
19 from Mr. Lunn.

20 And I did want to also thank all of my
21 friends for working very hard with me to keep on
22 time and to get within our very difficult and
23 challenging time estimates, so I do appreciate it.
24 I know everybody worked very hard and cooperated
25 with me in getting that done, so thank you very
26 much everybody.

27 And now I get a little bit of time off and
28 you're all back in a week, so lucky me; not so
29 lucky you.

30 THE COMMISSIONER: Thank you, Ms. Baker. I think,
31 given the pressures that everybody is under, time-
32 wise, it's never too many thank yous, so I would
33 like to also express my appreciation to commission
34 counsel who are sitting here, today, who worked
35 very, very hard and diligently to prepare for this
36 session and to work with participants' counsel to
37 make sure we could get through it in the time
38 allotted.

39 I express my gratitude to all commission
40 counsel and to participants' counsel, who have
41 worked so hard to stay within the time constraint.
42 And our court staff, who make it run as smoothly
43 as it runs, even from Florida, so thank you very,
44 very much to all of you.

45 And I assume we're back here on Monday,
46 February 21st, is it? 21st. Thank you. And have
47 a nice weekend and a nice Valentine's.

1 THE REGISTRAR: The hearing is now adjourned for the
2 day and will resume Monday, February 21st, at
3 10:00 a.m.
4

5 (PROCEEDINGS ADJOURNED AT 3:35 P.M. TO
6 MONDAY, FEBRUARY 21, 2011, AT 10:00 A.M.)
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9

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11
12 I HEREBY CERTIFY the foregoing to be a
13 true and accurate transcript of the
14 evidence recorded on a sound recording
15 apparatus, transcribed to the best of my
16 skill and ability, and in accordance
17 with applicable standards.
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22 Pat Neumann
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24 I HEREBY CERTIFY the foregoing to be a
25 true and accurate transcript of the
26 evidence recorded on a sound recording
27 apparatus, transcribed to the best of my
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34 Diane Rochfort
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37 true and accurate transcript of the
38 evidence recorded on a sound recording
39 apparatus, transcribed to the best of my
40 skill and ability, and in accordance
41 with applicable standards.
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45 Karen Hefferland
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