

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.

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**Tenue à :**

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

le vendredi 3 juin 2011

## **APPEARANCES / COMPARUTIONS**

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Tim Timberg Geneva Grande-McNeill	Government of Canada ("CAN")
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No appearance	Rio Tinto Alcan Inc. ("RTAI")
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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.**

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

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

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

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Vancouver, B.C./Vancouver  
(C.-B.)  
June 3, 2011/ le 3 juin 2011

1  
2  
3  
4  
5 THE REGISTRAR: Hearing is now resumed.

6 MR. WALLACE: Good morning, Commissioner Cohen. Brian  
7 Wallace, counsel for the Commission, and with me  
8 is Lara Tessaro. I just have one housekeeping  
9 matter, if I may. Yesterday, I think it was, we  
10 marked as Exhibit 941 two documents, one being an  
11 approval document and the other being a  
12 spreadsheet which cannot be electronically  
13 combined, so I would ask the record to reflect  
14 that the initial document, the narrative, would be  
15 marked as Exhibit 941 and we would give the number  
16 941A to the spreadsheet.

17 THE REGISTRAR: It will be so marked.

18  
19 EXHIBIT 941: Approval of Approach to  
20 Planning for Priority Conservation Units, Ops  
21 Committee note

22  
23 EXHIBIT 941A: Spreadsheet

24  
25 MR. TIMBERG: Mr. Commissioner, Tim Timberg for Canada,  
26 with my colleague, Geneva Grande-McNeill. We also  
27 have a housekeeping matter from yesterday.  
28 Exhibit 945 was marked yesterday which is an  
29 inventory of meetings with respect to WSP  
30 implementation. The attached spreadsheet also  
31 can't be joined, so we suggest that the summary  
32 Excel spreadsheet be marked as Exhibit 945A.

33 THE REGISTRAR: That also will be so marked.

34  
35 EXHIBIT 945A: Inventory of Meetings related  
36 to Fraser Sockeye Planning and WSP  
37 implementation spreadsheet

38  
39 MR. TIMBERG: Mr. Commissioner I have 45 minutes left  
40 in my time allotment and I'll spend approximately  
41 20 minutes on a series of further questions and  
42 then I have a number of documents and exhibits  
43 that I'll seek to be entered and explained to help  
44 flesh out the record on strategies in 4 and 5 and  
45 an update on the Marine Stewardship Certification  
46 process.



1 PAUL RYALL, recalled.

2  
3 MARK SAUNDERS, recalled.

4  
5 ROB MORLEY, recalled.

6  
7 JEFFERY YOUNG, recalled.

8  
9 CROSS-EXAMINATION BY MR. TIMBERG, continuing:

10  
11 Q Yesterday -- Mr. Lunn, if we could have the IFMP.  
12 Thank you. This is -- this was marked yesterday  
13 as an exhibit.

14 MR. LUNN: 946.

15 MR. TIMBERG:

16 Q 946. And Mr. Ryall, we left off yesterday talking  
17 about how DFO through the WSP is planning to --  
18 through the WSP and the IFMP process is planning  
19 on dealing with the uncertainty in run returns and  
20 how you plan for that variability in returns. And  
21 we left off with the suggestion that we should be  
22 at page 79 of the IFMP. And if you could explain  
23 for the commissioner how DFO is utilizing the IFMP  
24 process to explain the variabilities of returns  
25 and perhaps we should just start back a page or  
26 two, Mr. Lunn. I'll let Mr. Ryall direct you.

27 MR. RYALL: So in this section of the IFMP we're  
28 looking at setting the escapement strategy and  
29 goals for 2011. And while we do make pre-season  
30 forecasts, they are, as everyone has probably  
31 heard, not totally accurate and there's quite a  
32 wide range of -- around possible returns and we  
33 try to capture that uncertainty and probability  
34 distributions. But, you know, really the  
35 important thing is we need to do the assessments  
36 on run size in season and we need to determine  
37 what our escapement strategy is going to be across  
38 a wide range of returns and so that there's not  
39 any surprises for anyone about what sort of  
40 actions would be taken in fisheries to ensure that  
41 we meet our requirements for conservation. And  
42 that means then being clear on the management  
43 groups that we currently have for Fraser sockeye  
44 which are Early Stuart, Summers -- Early Summers,  
45 Summers and Lates; that we're clear on how we're  
46 going to manage fisheries in the event that the  
47 run is larger than forecast or less than forecast

1 and what would happen across a wide range of  
2 returns in between.

3 We've consulted extensively around this  
4 process over the last six years and come up with  
5 what's known as a harvest rule and that's what --  
6 and we put out options each year, generally four,  
7 across each of these management groups. And if we  
8 could go to the page that shows those graphs  
9 again.

10 MR. TIMBERG: That's page 79.

11 MR. RYALL: And we'll just use this one as an example,  
12 but the others follow the same particular pattern,  
13 in that the blue line is what drives the decision-  
14 making and this is the harvest rule. And just  
15 take a look at Option number 2. Maybe actually if  
16 we go down to Option 3. It doesn't really matter  
17 a whole bunch. So the blue line here is what's  
18 driving what the outcome is decision-making and if  
19 the run size is shown on the X-axis, it ranges  
20 here from a very low, zero return, up to 400,000  
21 on Early Stuart. And if the run size is less than  
22 roughly it looks like about 110,000 on this  
23 particular graph, that there would be no fisheries  
24 targeting Early Stuart and no harvest. The  
25 harvest rate would be zero. And really, what you  
26 would get then is whatever the actual return is,  
27 which it would be put on the spawning grounds and  
28 that's what's shown in the green line is how many  
29 fish would go in the spawning grounds in actual  
30 escapement numbers and you can see on that green  
31 line, it starts at zero and it goes up to roughly  
32 110,000, how many fish would end up in the  
33 spawning grounds, and that's driven by what the  
34 actual return is, if that makes sense.

35 So there's no harvest. But once there is a  
36 run size greater than 110,000 you'll see that blue  
37 line is a curved shape and that curve shape was  
38 chosen deliberately after a series of iterations,  
39 so that the actual fish number on the grounds is a  
40 fixed number and if you go back to the green line,  
41 you'll see it's a flat line over a range of  
42 110,000 up to about 260,000. You'd have a fixed  
43 number of fish on the spawning grounds.

44 Once it's -- roughly looks like here on this  
45 particular option, 260,000, the harvest rate is  
46 fixed at 60 percent and that means you're going to  
47 harvest 60 percent and the remainder would go to

1 the spawning grounds.

2 Now, there's another piece in here. This is  
3 called the TAM rule and that TAM rule is adjusted  
4 based upon what we expect could happen as far as a  
5 management adjustment. That depends on  
6 environmental conditions and that would reduce the  
7 overall exploitation rate, so that complicates the  
8 picture, but that is factored in, as well. We  
9 have monitored environmental conditions, as well.

10 The point of this though is that there's a  
11 clear decision rule. There's a clear no fishing  
12 point and there's also a cutback point where the  
13 harvest rate is reduced from the maximum.

14 In this particular series here, if we go back  
15 to the broader page, as I said, there are four  
16 options put on this particular page and you'll see  
17 over in the left-hand side where it says option  
18 used in past cycles starting in 2007, that we used  
19 Option 3 for two of those years and Option 4 two  
20 of those -- 2009 and 2010.

21 So why is that? And why are we changing?  
22 Well, it's based upon input from consultation and,  
23 you know, the Option 4 is a much more conservative  
24 option than Option -- not a much more. It's a more  
25 conservative option than Option 3 and similarly,  
26 Option 2 is less conservative, meaning that the  
27 probability of fishing is going to start sooner  
28 because the shape of curve you've chosen.

29 So consultation influences what is the  
30 outcome of setting these decision rules, and we  
31 put them out in an annual memo each year and get  
32 feedback and make -- and then make a choice.

33 THE COMMISSIONER: Mr. Timberg, I apologize for  
34 interrupting. I just want to ask a question so I  
35 don't lose the point at this stage of the  
36 explanation. Mr. Ryall, do I understand that this  
37 example you've shown us for the current IFMP at  
38 this stage does not factor in anything other than  
39 conservation considerations? And if I'm correct  
40 in that, that is to say no socioeconomic  
41 consultations or implications would find their way  
42 into this in-season adjustment? If I'm correct in  
43 that, if the Wild Salmon Policy were fully  
44 implemented, fully implemented, and the -- when I  
45 say that I'm saying it in the context of a mixed  
46 stock fishery, not moving to a terminal fishery or  
47 an ITQ system, but a fully-integrated and fully-

1 implemented WSP policy, would there be any change  
2 in your explanation with regard to how this  
3 process would be developed?

4 MR. RYALL: Well, I think these range of Options 1  
5 through 4 do take into account social and  
6 economic, albeit maybe not perfectly. But, you  
7 know, if we go up to Option 1, you'll see that  
8 there's fishing that is going to happen much  
9 sooner, meaning that there's a very steep rise in  
10 that blue line up to a maximum exploitation rate  
11 at a much lower run size.

12 So in the graphs that we've put out and the  
13 explanation that's put out each year, we've  
14 developed some performance measures, one that  
15 looks at conservation and another that looks at  
16 what the harvest would be across these range of  
17 run sizes, and we've put those in probabilities,  
18 as well. So what's the probability of staying  
19 away from a benchmark? What's the probability of  
20 the catch being less than a million? What's the  
21 implication going to be on the overall harvest?  
22 So we've tried to capture those social and  
23 economic and the conservation objectives in those  
24 performance measures.

25 So they're incorporated in these graphs and  
26 when we go out and do the consultation and  
27 discussion around them, we get feedback and  
28 there's a range of views expressed about what's  
29 appropriate and, you know, what I find interesting  
30 about this particular page and the others that are  
31 in the IFMP that for 2007, '08, '09 and '10, the  
32 range has narrowed somewhat. If we look at other  
33 years, we'll see that different options have been  
34 implemented for a variety of reasons -- not a  
35 variety, but, you know, based upon input. And my  
36 view is that the performance measures we've used  
37 have tried to capture the conservation objectives  
38 with -- through consistent with the WSP and also  
39 tried to capture some of the social and economic  
40 performance measures, as well, already within  
41 these graphs and choices.

42 THE COMMISSIONER: Is that articulated in the IFMP?

43 MR. RYALL: Probably not terribly well, but I think it  
44 is within the memos that we put out on an annual  
45 basis much better. Last year my recollection is  
46 that the memo was an appendix to the IFMP. I  
47 think the information that's in the 2011 IFMP is

1 an improvement from 2010 and each year I think  
2 that we've made these adjustments to try and  
3 improve upon communication, but I think that, to  
4 me, is an ongoing challenge within this overall  
5 process.

6 For example, in 2009 on Early Stuart in  
7 particular, there was feedback from First Nations  
8 that we should use Option 4 is my recollection.  
9 Actually, they had another option, it was an  
10 Option 5 that was created that had no fishing at a  
11 very much larger run size, over 200,000, and we  
12 didn't fully adopt that advice, but we did adjust  
13 and I made an adjustment so that there was no  
14 fishing up -- I think it was 168,000, meaning that  
15 there was a concern that was raised by First  
16 Nations primarily from the upper part of the  
17 watershed where these fish return at -- they  
18 wanted to see recovery happen over a faster period  
19 of time on this particular stock and wanted to  
20 have no fishing occur and provide those fish onto  
21 the spawning grounds.

22 THE COMMISSIONER: Thank you, Mr. Timberg.

23 MR. TIMBERG: Yes.

24 Q Yesterday, Mr. Saunders, you've spoke about --  
25 there was a conversation about the identification  
26 of priority CUs and you spoke about the outlook  
27 process. If we could turn to Tab 57 of Canada's  
28 documents, Mr. Lunn.

29 Could you describe what this document is?

30 MR. SAUNDERS: Yes, Mr. Commissioner, this stock  
31 outlook is a document that science has used for a  
32 number of years now to communicate to -- at the  
33 request largely of industry and the recreational  
34 sector to get a sense of what was coming down the  
35 pipe annually in terms of available opportunity to  
36 fish. And wanting to understand what was becoming  
37 available, but also what fisheries management  
38 actions might be taken in terms of the status of a  
39 particular stock.

40 So I talked yesterday to about the stock of  
41 concern and its relationship to priority  
42 conservation units, so the absence --

43 Q Oh, sorry.

44 MR. SAUNDERS: Sorry?

45 Q I'm just going to interrupt you, Mr. Saunders.

46 MR. SAUNDERS: Yes.

47 Q Could we just turn to page 4 of the document, Mr.

1 Lunn?

2 MR. LUNN: Certainly.

3 MR. SAUNDERS: Actually, the first page you were on was  
4 helpful as well there.

5 MR. TIMBERG:

6 Q Okay. Sorry. I'll let you go. Yes.

7 MR. SAUNDERS: Yes, page 1 shows you can see the table  
8 in there shows the categories. This is -- I think  
9 you're familiar with the more detailed analysis  
10 like the Grant paper, but this look-ahead is based  
11 on expert opinion, so biologists and researchers  
12 that are involved with these stocks use the best  
13 available science. It's not peer-reviewed, but  
14 they provide on a timely basis an indication of  
15 these four categories of stock status, so stock of  
16 concern would be most similar to what we were  
17 talking about, perhaps a red designation under the  
18 Wild Salmon Policy, but these then inform --  
19 you'll see in the IFMP and I think we went  
20 yesterday to the Cultus, that -- and I think Mr.  
21 Timberg was pointing to that further down in the  
22 document you can see that Cultus in here is  
23 identified as a stock of concern, which would then  
24 inform subsequent development of management plans  
25 going forward.

26 So this is --

27 Q Mr. Saunders, we're just a bit pressed for time  
28 this morning.

29 MR. SAUNDERS: Yes.

30 Q So I'm just going to ask you a question. Is this  
31 an interim measure?

32 MR. SAUNDERS: I think this is a -- it's -- I wouldn't  
33 say it's an interim measure. I think it's being  
34 used as an interim measure in terms of  
35 identification of stocks of concern, but I think  
36 the industry and others will have an ongoing need  
37 for this type of timely information about what's  
38 coming up in an upcoming season, but it's not --  
39 wouldn't be intended to be ongoing replacement for  
40 achieving the identification of benchmarks under  
41 the WSP.

42 Q And what's the plan in the future with respect to  
43 identifying priority CUs?

44 MR. SAUNDERS: Well, I think the plan going forward  
45 would be to continue the work on completing the  
46 benchmarks that we're working on over the next  
47 year and that would then inform a prioritization

1 process that would -- you know, as you've seen,  
2 there have been a number of attempts to complete  
3 that, but we would reinitiate that process to get  
4 agreement on the identification of priority CUs.

5 Q And is that Blair Holtby's work that you spoke  
6 about yesterday?

7 MR. SAUNDERS: That's -- again, that's one component of  
8 it. Blair's is going to give us --

9 Q Right.

10 MR. SAUNDERS: -- Blair's work is going to give us an  
11 idea of conservation status which would inform  
12 priority but like we discussed yesterday, there  
13 are a number of other aspects, social and  
14 economic, that would inform priority that would  
15 have to be included in that prioritization.

16 Q Okay. Thank you. If we could turn to Exhibit 8,  
17 please and to Appendix 2 at the back.

18 And my question will be for you, Mr. Ryall.  
19 Can you describe the -- whether DFO is following  
20 the five-step planning process set out in the Wild  
21 Salmon Policy presently?

22 MR. RYALL: Well, in this --

23 MR. TIMBERG: Oh, and before you answer that, I did not  
24 mark the last exhibit, I understand.

25 THE REGISTRAR: Exhibit 947.

26

27 EXHIBIT 947: 2009 Salmon Stock Outlook

28

29 MR. TIMBERG: Thank you.

30 THE COMMISSIONER: Which tab is that in your binder,  
31 Mr. Timberg?

32 MR. TIMBERG: That's Tab 57.

33 THE COMMISSIONER: Thank you very much.

34 MR. TIMBERG:

35 Q Sorry, I interrupted you, Mr. Ryall. The question  
36 was is DFO following the five-step planning  
37 process in the Wild Salmon Policy Appendix 2?

38 MR. RYALL: Well, in this five-step planning process,  
39 that's what we used in the FRSSI process. I think  
40 we learned a few things as we went through this  
41 process.

42 I think it is a good framework for a process  
43 to use this type of outline to come to ground on  
44 setting objectives and trying to come to  
45 agreement. My recollection of this and going  
46 through this, through the FRSSI process, when we  
47 first started it, I think Step 1 and 2 were a bit

1 of a challenge. You heard from Mr. Morley  
2 yesterday about his thoughts that this was a good  
3 process. I would endorse that, as well. I do  
4 think it is a good process. I think that when we  
5 first started it in the room we had quite a  
6 mixture of people, technical and non-technical,  
7 and I don't know if I would do that again in that  
8 type of process. I might separate the two and  
9 have Steps 1, 2 and 3. Maybe it's a technical  
10 focus. And that summarized and then Steps 4 and 5  
11 are taken into a broader forum for decision-  
12 making.

13 I found it useful. The outcome of it is is  
14 what we've documented in the IFMP basically, using  
15 this type of process. We are thinking of using a  
16 similar process to this or made quite -- nearly  
17 identical for another issue that we're facing  
18 within B.C. on Southern Chinook. We think that  
19 this is a good way to get at the core of what are  
20 the planning priorities, what's the -- what are  
21 the resource management options and what sort of  
22 strategies might one want to use?

23 In going on to Step 3 was around -- if we  
24 could just scroll up to that.

25 MR. LUNN: One moment, please.

26 MR. RYALL: With also taking a look at socio and  
27 economic and biological performance measures. You  
28 need to have those performance measures so that  
29 you have some yardstick to gauge what these  
30 different alternative management strategies are  
31 going to output. And then you need to have some  
32 tool to assess the likely inputs of those  
33 management alternatives and the tool that we  
34 choose in the FRSSI process was a management model  
35 and I think there's been some discussion here  
36 about the pros and cons of that management tool.  
37 We have heard those concerns over the years and  
38 have tried to address those by making changes to  
39 that management tool, and having that peer-  
40 reviewed. And most recently, it was peer-reviewed  
41 in 2010.

42 Step 5, you know, select a preferred  
43 management alternative - well, my experience has  
44 been that it's a real challenge to come down to  
45 one single preferred management alternative and  
46 you really do see the evidence of that challenge  
47 with -- we've identified a range of options in the



1 IFMP each year. I don't think that's really a  
2 drawback or a shortcoming of the process. I think  
3 my view is that the overall process on FRSSI  
4 raised this to a range of options but narrowed the  
5 field considerably from a choice of fixed  
6 escapement goals versus fixed harvest rates to one  
7 that encompassed being responsive to changes in  
8 run size and having a choice on harvest rates in  
9 between those.

10 The debate really then comes down to which  
11 sort of harvest rates does one have at various  
12 harvest run sizes.

13 I guess summary to me is that I think this is  
14 a good process. We also tried it in a -- using  
15 this process along with what's known as a  
16 structured decision-making. It's very much  
17 similar to this, but I would use that as well in  
18 the future but once again, we learned some lessons  
19 there and I'd modify that, as well.

20 MR. TIMBERG: Thank you. I have about 20 exhibits that  
21 I'd like to seek to have entered and a brief  
22 explanation on each and I have about 20 minutes  
23 left. So I'll move through a series of exhibits  
24 now and I'll ask either Mr. Ryall or Mr. Saunders  
25 to identify them and briefly explain why they're  
26 of assistance to us.

27 MR. SAUNDERS: Mr. Timberg, I wonder if I might add a  
28 few comments to what Mr. Ryall spoke to on the  
29 structured decision-making?

30 MR. TIMBERG:

31 Q Sure.

32 MR. SAUNDERS: Or on the five-step process.

33 Q Okay.

34 MR. SAUNDERS: I just want to add that I was involved  
35 in the FRSSI process, as well, and involved in the  
36 development of the WSP and I -- and Strategy 4 in  
37 particular, and I think yesterday Mr. Morley spoke  
38 to -- and others have endorsed, as Mr. Ryall just  
39 did, this procedure and I just want to highlight  
40 that I absolutely endorse the five-step procedure  
41 there, but I want to back up just a little bit to  
42 say that in this -- what we're trying to do under  
43 Strategy 4 is to develop plans and I think we  
44 heard also from Mr. Morley yesterday about the  
45 complexity and sort of the difficulty. We also  
46 heard that as we were developing it within the  
47 department over the last three to four years, our

1 senior managers have sent us back to the drawing  
2 board a couple of times on re-evaluating how to  
3 conduct -- how to build these pilots, go back and  
4 learn about it, how big is it going to be? And I  
5 think that you need to look at it in that we're  
6 trying to develop plans which is absolutely  
7 essential. It's something that we really -- a  
8 longer-term strategic plan is something that we  
9 don't have.

10 The IFMP is largely an annual tool. The  
11 outlook is an annual tool. So we're trying to  
12 move to an emphasis that's longer-term, where are  
13 we going with this and how are we going to get all  
14 of the parties that are affected by this longer-  
15 term plan at the table to build it? And Mr.  
16 Sprout often said as we were contemplating this,  
17 do we have to fill B.C. Place every time we try to  
18 move forward on these longer-term plans?

19 So I think there are two attributes, Mr.  
20 Commissioner, that we're trying to devise here.  
21 One is a structure to bring us together and then  
22 the procedures once we come together. And what we  
23 heard about the structure, I think we've learned  
24 from the FRSSI, the pilots, the development of the  
25 WSP that there are principles around transparency,  
26 the need to engage First Nations through the  
27 tiered process is absolutely essential, but a very  
28 complex process that almost -- the First Nations,  
29 ourselves, and the other interests that are  
30 involved don't have the capacity to be at  
31 meetings. You know, there is a serious issue  
32 around burnout about our ability to come together  
33 in the way the courts and the way we know we need  
34 to come together, so we need to work towards some  
35 efficiency on that structure.

36 And I agree with Mr. Morley that the  
37 structure can be -- this idea of becoming more  
38 efficient, we -- and the FRSSI process pointed out  
39 that bringing people together technically, at  
40 least on the fish side of things, we have quite a  
41 high degree of experience and capacity to do that.  
42 What we don't have is bringing representatives  
43 together that can make decisions - and I say  
44 around trade-offs - that require more political  
45 buy-in from -- and particularly in the First  
46 Nations case, the first examples of FRSSI grounded  
47 out because the technical people could agree on

1 the options, but we didn't have an ability to go  
2 back and have -- they were there -- First Nations  
3 participants were there as wise individuals to  
4 inform a process, but had no mandate to go back to  
5 the individual First Nations to get -- to agree to  
6 an outcome. And I think we're -- we -- that sort  
7 of First Nations understand the lack of their  
8 capacity, but the need for us to work differently.  
9 So we need to really put our heads together on how  
10 to come up with the right structure for bringing  
11 us together.

12 And then I said the other component is the  
13 procedure and this five-step planning process  
14 that's articulated in Appendix 2 that's described  
15 in there is a new -- it may be subtle at first but  
16 it's a real -- it's fundamentally a new way of  
17 doing business. Gone is the idea that science  
18 produces a single document that outlines our  
19 options for conservation going forward and a  
20 socioeconomic report that will enter into evidence  
21 shortly, some of those socioeconomic reports, but  
22 it's not -- those are not going to allow groups to  
23 come together and come to a decision. They need  
24 to come together, decide what our objectives are,  
25 which is the first part of that process.

26 The second part is to look at the -- agree on  
27 potential options and then through an iterative  
28 process, work through the social and -- how those  
29 options, the implications of those options, to  
30 social and economic objectives for all the parties  
31 involved, as well as the conservation outcomes.

32 Once you've got -- and it's going to take you  
33 multiple iterations to come back and forth. I  
34 agree with Mr. Morley the FRSSI process and others  
35 have shown that this works. This is the way to  
36 go. But it's expensive and time-consuming. So  
37 are there ways that we can -- I agree with him  
38 that can we send the -- can we turn this over to  
39 the technical people to work through those  
40 options? And then bring back at very judiciously  
41 bring back the people that need to be involved in  
42 the decision.

43 So I think it's a -- I think it's a new way  
44 of doing science. What we learned from the FRSSI  
45 is that we are pretty good at bringing the science  
46 to the table. There's some gaps but what we lack  
47 is -- and we built more capacity around the

1 economic -- identifying the economic objectives  
2 and the social objectives, we're not particularly  
3 adept in the department at bringing in particular  
4 social objectives, as well as our stakeholders  
5 have struggled and interests have struggled and  
6 how do we bring these -- and articulate these  
7 objectives and bring them forward.

8 But I think we're absolutely on the right  
9 track in terms of the five-step process and coming  
10 to types of -- while we do need to move forward on  
11 procedures and bringing it together.

12 Q Thank you. That's a helpful overview.

13 I'll now just move through our series of  
14 exhibits and ask for you to identify why they're  
15 of assistance to us. If we could have Canada's  
16 Tab 36, Mr. Lunn, please. And while that's coming  
17 up, I note that -- I'm moving on to the documents  
18 on socioeconomic reports, Mr. Commissioner. We  
19 already have in evidence Exhibit 601 which is a  
20 Fraser River sockeye management socioeconomic  
21 consideration, so I will not have that raised this  
22 morning. But I just mention it for the record.

23 If we could then -- I presume it's Mr. Ryall,  
24 could you explain what this document is?

25 MR. RYALL: Yes. It was a contract that was let to Mr.  
26 Gislason back in February of 2006, trying to come  
27 to ground on what some social and economic  
28 indicators would be. As Mark as already  
29 indicated, internally we didn't really have -- we  
30 did not have the capacity. And it's -- the  
31 economic ones, we have recently added the number  
32 of people that are within our Policy Branch that  
33 are economists, but I still think, as Mark's  
34 indicated, the social ones are going to be a  
35 challenge and we'll be looking externally.

36 MR. TIMBERG: Thank you. If this could be marked as  
37 the next exhibit, please?

38 THE REGISTRAR: Exhibit 948.

39  
40 EXHIBIT 948: Fraser River Sockeye Management  
41 Socio-Economic Indicators - Discussion  
42 Document, February 2006  
43

44 MR. TIMBERG: And if we could then have Canada's Tab  
45 37, please?

46 Q And this, I understand, will be the economic  
47 dimensions of the Skeena watershed salmonid

1 fisheries. And Mr. Ryall, could you explain what  
2 this document is?

3 MR. RYALL: Well, there's an independent science  
4 committee that produced a report on the Skeena  
5 River. At the same time we wanted to get an  
6 appreciation within the -- and also provide for  
7 our stakeholders the economics of the Skeena  
8 salmon fisheries, and so this was undertaken by  
9 counterpoint consulting.

10 MR. TIMBERG: Thank you. If that could be marked as  
11 the next exhibit.

12 THE REGISTRAR: 949.

13  
14 EXHIBIT 949: Economic Dimensions of Skeena  
15 Watershed Salmonid Fisheries - October 2008  
16

17 MR. TIMBERG: If then we could have Canada's Tab 34.  
18 And this is a letter from the Department of  
19 Justice to the commission of inquiry. If we could  
20 go to - and it's a list of socioeconomic reports  
21 regarding Fraser River sockeye.

22 Q If you could look to the next page, 2 and 3. Mr.  
23 Ryall, can you explain how this list was compiled  
24 and what's included in this list?

25 MR. RYALL: This -- Amy Mar put this list together.  
26 She talked with a number of her colleagues, both  
27 here in the region and nationally to put this list  
28 together of economic reports that have been  
29 undertaken by the department over the years. The  
30 two -- the one that we just looked at is included  
31 in this list.

32 MR. TIMBERG: All right. And if this could be marked  
33 -- and for the benefit of the participants this is  
34 a compendium list of the socioeconomic reports.  
35 If that could be marked as the next exhibit.

36 THE REGISTRAR: Exhibit 950.

37  
38 EXHIBIT 950: Letter to Commission re Socio-  
39 Economic Reports Regarding Fraser River  
40 Sockeye - May 11, 2011  
41

42 MR. TIMBERG:

43 Q If we could then turn to Commission Tab 15 and if  
44 we could -- Mr. Ryall, could you explain what this  
45 document is?

46 MR. RYALL: This is a presentation that was made on  
47 April 14th to the Strategic Directions Committee.

1           It was to provide an update on the implementation  
2           of Wild Salmon Policy Strategy 4.

3 MR. TIMBERG: All right. If this could be marked as  
4           the next exhibit.

5 THE COMMISSIONER: Sorry, what tab are you at?

6 MR. TIMBERG: We're at the commission's Tab 15.

7 THE REGISTRAR: Exhibit 951.

8

9           EXHIBIT 951: Update and Strategic Approach  
10           to Implementation of WSP Strategy 4 - April  
11           14, 2011  
12

13 MR. TIMBERG: And Mr. Lunn, could we move to Slide 11  
14           on this document?

15 Q       And is this, Mr. Ryall, a helpful summary of what  
16       DFO has learned from the FRSSI pilot?

17 MR. RYALL: It's a helpful summary. Some of the things  
18       that Mark and I have spoken about in this meeting  
19       would add to this, I think, or provide, like any  
20       presentation, couple of bullets doesn't capture  
21       everything but I think it is a helpful summary.

22 Q       Mr. Ryall, will the FRSSI model be updated when  
23       Sue Grant's work on WSP benchmarks is completed?

24 MR. RYALL: The model that issued in FRSSI was reviewed  
25       in 2010 and coming out of that there was advice  
26       back to make some changes to the model and they've  
27       had a work plan in place to undertake those  
28       modifications.

29 Q       All right. And if we could then turn to  
30       Commission's Tab 5 and yesterday, Mr. Ryall, you  
31       were talking about the papers of Sandy Fraser,  
32       that they were of assistance on the concept of  
33       scale of planning under the Wild Salmon Policy.  
34       Can you identify this document for us?

35 MR. RYALL: Yes. This is some work that Mr. Fraser  
36       did. We were struggling and, I think, still are  
37       about what the appropriate scale is to undertake  
38       these strategic plans and I'd asked Sandy to come  
39       up with some thoughts on how he would undertake  
40       that work and he proposed something that was  
41       linked both to the biology of how conservation  
42       units were identified, along with where these fish  
43       migrate and where they're harvested that would  
44       provide some ideas around scaling. That's where I  
45       mentioned yesterday that there could be 20 to 25  
46       integrated strategic plans based upon this type of  
47       work.

1 Q Thank you. And if we could move to Commission's  
2 Tab 6 --

3 THE REGISTRAR: Do you want that --

4 MR. TIMBERG: Oh, if that could be marked as the next  
5 exhibit.

6 THE REGISTRAR: Exhibit 952 for Tab 5.

7

8 EXHIBIT 952: Identifying Planning Units and  
9 Prioritizing Integrated Strategic Planning  
10 Initiatives Under the Wild Salmon Policy -  
11 March 2009  
12

13 MR. TIMBERG: And then if we could move to Tab 6.

14 Q And could you identify this document, Mr. Ryall?

15 MR. RYALL: Basically a continuation of the earlier one  
16 that Sandy undertook back in March of '09.

17 MR. TIMBERG: All right. And if this could be marked  
18 as the next exhibit.

19 THE REGISTRAR: 953.

20

21 EXHIBIT 953: Prioritizing Integrated  
22 Planning Initiatives Under the Wild Salmon  
23 Policy - October 2009  
24

25 MR. TIMBERG: And then if we could move to Canada's Tab  
26 1, please, Mr. Lunn.

27 Q And Mr. Ryall, if you could identify this  
28 document.

29 MR. RYALL: Yes. The authors are listed there. This  
30 was a presentation that was made this year and the  
31 intent here was to undertake work and update on  
32 Barkley Sound pilot that's been undertaken.

33 MR. TIMBERG: All right. Thank you. If this could be  
34 marked as the next exhibit.

35 THE COMMISSIONER: And that's Tab of Canada's Tab...?

36 MR. TIMBERG: Tab 1 of Canada's binder.

37 THE REGISTRAR: Exhibit 954.

38

39 EXHIBIT 954: Barkley Sound Sockeye: Intro to  
40 Strategic Management Planning - April 27,  
41 2011  
42

43 THE COMMISSIONER: Is that 30-1?

44 MR. TIMBERG: No, Tab 1. It'll -- there's -- we have  
45 two volumes.

46 THE COMMISSIONER: Oh, your second volume.

47 MR. TIMBERG: And I'll be going through these from 1 to

1 the end.

2 THE COMMISSIONER: That's a different volume. Thank  
3 you.

4 MR. TIMBERG: And so this document entitled "Barkley  
5 Sound Sockeye Intro to Strategic Management  
6 Planning", if that could be marked as the next  
7 exhibit. Oh, that is marked. Okay. Thank you.

8 Q And then if we could move to Tab 2 of Canada's  
9 binder. And Mr. Saunders, can you explain what  
10 this document is?

11 MR. SAUNDERS: Yes. This is an outcome of some  
12 planning work that was done across -- that was  
13 initiated by Paul Sprout as Regional Director  
14 General when I was with the Fraser Salmon and  
15 Watersheds Program and it's a model that describes  
16 the outcomes that all of -- a number of  
17 organizations, including the province and a number  
18 of First Nations and other NGO organizations that  
19 were interested in collaborating on sustainability  
20 in the Fraser basin. And I think it provided --  
21 the process that went around building this  
22 provides a model for how different orders of  
23 government and industry and organizations can come  
24 together to jointly work towards shared outcomes.  
25 And I think this could be part of a tool going  
26 forward to ensure sustainability in the Fraser  
27 basin.

28 MR. TIMBERG: Thank you. If that could be marked as  
29 the next exhibit.

30 THE REGISTRAR: Exhibit 955.

31  
32 EXHIBIT 955: Draft - Fraser Watershed  
33 Overarching Logic Model - January 27, 2009  
34

35 MR. TIMBERG:

36 Q And then if we could move to Tab 6 of Canada's  
37 binder. And Mr. Saunders, can you explain this  
38 list of integrated planning round tables?

39 MR. SAUNDERS: Yes. This is a list of round tables. I  
40 don't -- it's not exhaustive. There are others.  
41 But I think it demonstrates when we talk about an  
42 appropriate planning structure to go forward with,  
43 the department either directly or indirectly  
44 through the Fraser Salmon Watersheds Program and a  
45 number of other initiatives couple some of them  
46 with the province have demonstrated that this --  
47 these round table processes can be very effective



1 in terms of integrated planning for the  
2 environment. So I think it's worth keeping in  
3 mind exposing ourselves to these processes that  
4 have been in place.

5 Q Thank you. If we could then move to Tab 10 of  
6 Canada's --

7 MR. TIMBERG: Oh, if that could be -- that was -- was  
8 that marked?

9 MS. GAERTNER: I think that's already been marked as an  
10 exhibit, if you could check Exhibit 655.

11 MR. TIMBERG: Oh, thank you. Thank you, Ms. Gaertner.

12 THE COMMISSIONER: Tab 10 has not been marked? Is that  
13 -- Mr. Timberg, is that what Ms. Gaertner was  
14 indicating?

15 MR. TIMBERG: I think she was saying that Tab 6 is  
16 already marked as Exhibit 655. And I appreciate  
17 that input.

18 Q If we could then move to Tab 10 of Canada's  
19 binder. And if you could describe what this  
20 agreement is between Canada and British Columbia.

21 MR. WALLACE: Mr. Commissioner, this document is  
22 attached to a PPR which is already in evidence.

23 MR. TIMBERG: Okay. If it's already in evidence, then  
24 can you describe -- then I'll leave this. If we  
25 could move on to Tab 11.

26 THE COMMISSIONER: Mr. Wallace, can you identify which  
27 PPR you're talking about?

28 MR. WALLACE: The habitat management PPR.

29 THE COMMISSIONER: Okay.

30 MR. TIMBERG:

31 Q And Mr. Saunders, can you describe this meeting  
32 note of Wild Salmon Policy Planning Implementation  
33 Team?

34 MR. SAUNDERS: Yes. This would have been a record of a  
35 meeting that was held of our Wild Salmon Policy  
36 work planning, the implementation team --

37 MR. TIMBERG: Okay. Thank you. If that could be  
38 marked as the next exhibit.

39 THE REGISTRAR: 956.

40

41 EXHIBIT 956: Record of Meeting - Regional  
42 WSP Implementation Team - March 29, 2011

43

44 MR. TIMBERG:

45 Q And if we could move to Tab 12. And I'll just ask  
46 Mr. Ryall if you can just confirm this is a  
47 workshop that you asked -- that you asked this be

1 prepared for you?

2 MR. RYALL: That's correct.

3 MR. TIMBERG: If that could be marked as the next  
4 exhibit.

5 THE REGISTRAR: 957.

6

7 EXHIBIT 957: Proceedings of DFO Workshop on  
8 Wild Salmon Policy Strategy 4: Integrated  
9 Strategic Planning - March 2009

10

11 MR. TIMBERG:

12 Q And if we could go to Tab 14. And, Mr. Saunders,  
13 can you confirm this is another meeting of the  
14 Wild Salmon Policy Implementation Team?

15 MR. SAUNDERS: Yes.

16 MR. TIMBERG: If that could be marked as the next  
17 exhibit.

18 THE REGISTRAR: 958.

19

20 EXHIBIT 958: Record of Meeting - Regional  
21 WSP Implementation Team - January 17, 2011

22

23 MR. TIMBERG:

24 Q And if we could go to Tab 15? And again, Mr.  
25 Saunders, can you confirm this is a meeting  
26 regarding -- it's a statement of work?

27 MR. SAUNDERS: Yes, it's a statement of work for the  
28 review of the Wild Salmon Policy.

29 MR. TIMBERG: Thank you. If that could be marked as  
30 the next exhibit.

31 THE REGISTRAR: 959.

32

33 EXHIBIT 959: Statement of Work - Performance  
34 Review of the Wild Salmon Policy - May 5,  
35 2011

36

37 MR. TIMBERG:

38 Q And if we could go to Tab 16. And Mr. Saunders,  
39 can you confirm this is the Operations Committee  
40 on Strategy 6 performance review?

41 MR. SAUNDERS: Yes.

42 MR. TIMBERG: And if that could be marked as the next  
43 exhibit.

44 THE REGISTRAR: 960.

45

46

47

1 EXHIBIT 960: Wild Salmon Policy Strategy 6 -  
2 Performance Review - Operations Committee -  
3 April 14, 2011  
4

5 MR. TIMBERG:

6 Q And then if we could go to Tab 23, and Mr. Ryall,  
7 can you confirm this is a document providing  
8 updated methods --

9 MR. WALLACE: Mr. Commissioner, this is Exhibit 399.

10 MR. TIMBERG: Okay. Thank you.

11 THE COMMISSIONER: I'm sorry, which tab are you at?

12 MR. TIMBERG: I'm at Tab 23.

13 THE COMMISSIONER: And that is 399.

14 MR. TIMBERG: That's 399.

15 Q And if we could go to Canada's Tab 38. Oh,  
16 that's, I think, another one. Tab 38. Oh, yes.  
17 And Mr. Ryall, can you identify this document?

18 MR. RYALL: Yes. This was some work that I asked  
19 Gottfried Pestal to work with some of our  
20 biologists to show what -- how the management  
21 groups linked to the modelled groups and how those  
22 also linked to conservation units. There have  
23 been quite a number of questions about all those  
24 linkages and I thought the best way to do it was  
25 to put together a summary.

26 Q So is this an attempt to address the scale issue?

27 MR. RYALL: Well, partially. But, I mean, really, it's  
28 an attempt to show that when we have these  
29 modelled groups and how the conservation units fit  
30 into that. It was to show that we're  
31 incorporating within the model the majority of the  
32 returns within Fraser sockeye, both in harvest and  
33 escapement and I think it also to me is the  
34 complexity of the biological system that we're  
35 dealing with here and how it's somewhat of a  
36 challenge.

37 Q And so this helps to describe the interface  
38 between the four run-timing groups and the Fraser  
39 River sockeye conservation units?

40 MR. RYALL: That's right.

41 MR. TIMBERG: Okay. Thank you. If that could be  
42 marked as the next exhibit.

43 THE REGISTRAR: 961.  
44

45 EXHIBIT 961: Spreadsheet summary of Fraser  
46 Sockeye Management Group/Model  
47 Group/Conservation Unit

1 MR. TIMBERG:

2 Q And if we can move to Tab 41. And Mr. Saunders,  
3 can you confirm that's the Ops Committee meeting  
4 of May 26th, 2011?

5 MR. SAUNDERS: Yes.

6 MR. TIMBERG: If that could be marked as the next  
7 exhibit.

8 THE REGISTRAR: 962.

9

10 EXHIBIT 962: Wild Salmon Policy - Work  
11 Planning - Operations Committee - May 26,  
12 2011  
13

14 MR. TIMBERG:

15 Q If we could go to Tab -- I'm going to suggest that  
16 Tabs 42, 43, 44 and 45, if we could review those  
17 in order. And Mr. Saunders, can you identify this  
18 document?

19 MR. SAUNDERS: Yes. It's a terms of reference for the  
20 WSP Implementation Team.

21 MR. TIMBERG: Thank you. If that could be marked.

22 THE REGISTRAR: Tab 42, 963.

23

24 EXHIBIT 963: Wild Salmon Policy  
25 Implementation Team - Terms of Reference -  
26 Draft  
27

28 MR. TIMBERG:

29 Q And Mr. Saunders, can you identify Tab 43?

30 MR. SAUNDERS: Yes, this would be the WSP  
31 Implementation Team's draft work plan for 2011/12.

32 MR. TIMBERG: If that could be marked as the next  
33 exhibit.

34 THE REGISTRAR: 964.

35

36 EXHIBIT 964: Wild Salmon Policy  
37 Implementation Draft Work Plan 2011-2012  
38

39 MR. TIMBERG:

40 Q And Tab 44? And, Mr. Saunders, that's the  
41 Strategy 6 performance review?

42 MR. SAUNDERS: Yes, a 2010 discussion on it.

43 MR. TIMBERG: Thank you. If that could be marked.

44 THE REGISTRAR: 965.

45

46

47

1 EXHIBIT 965: Wild Salmon Policy Strategy 6 -  
2 Performance Review - Operations Committee -  
3 December 16, 2010  
4

5 MR. TIMBERG:

6 Q And if we could go to Tab 45, and what's this WSP  
7 Implementation Gap Analysis?

8 MR. SAUNDERS: Sorry? Can you repeat the question?

9 Q Can you identify this document?

10 MR. SAUNDERS: Yes, I can.

11 MR. TIMBERG: Okay. Thank you. If that could be  
12 marked as the next exhibit.

13 THE REGISTRAR: 966.  
14

15 EXHIBIT 966: Wild Salmon Policy Draft  
16 Implementation Gap Analysis - December 14,  
17 2010  
18

19 MR. TIMBERG:

20 Q And if we could go to Tab 47. We've done that.  
21 And if you go to Tab 50, and could you identify  
22 this document, Mr. Ryall? I note your --

23 MR. RYALL: Oh, yes. This is all coming back to me  
24 now. Is a meeting in Victoria where I attended  
25 and provided a presentation on Wild Salmon Policy  
26 with our colleagues in the...

27 MR. TIMBERG: Thank you. If this could be marked as  
28 the next exhibit.

29 THE REGISTRAR: Exhibit 967.  
30

31 EXHIBIT 967: Pacific Fisheries and  
32 Aquaculture Committee - British Columbia  
33 Meeting - October 23, 2009  
34

35 MR. TIMBERG:

36 Q And a brief question, Mr. Ryall, have you attended  
37 other meetings with other governments regarding  
38 WSP implementation besides this one?

39 MR. RYALL: Over the last six years, I certainly have,  
40 yes.

41 Q Thank you. And if we could move to Tab -- I have  
42 two more documents. Tab 54. Mr. Ryall, can you  
43 identify this contribution agreement between DFO  
44 and the Pacific Salmon Foundation? Or Mr.  
45 Saunders?

46 MR. SAUNDERS: Yes, it's an agreement, contribution  
47 agreement between the two organizations.

1 MR. TIMBERG: All right. If that could be marked as  
2 the next exhibit.

3 THE REGISTRAR: Tab 54, 968.

4  
5 EXHIBIT 968: Fraser Basin Initiative Program  
6 Contribution Agreement  
7

8 MR. TIMBERG:

9 Q And do you have -- does DFO have other agreements  
10 with other non-governmental organizations besides  
11 the Pacific Salmon Foundation?

12 MR. RYALL: Other agreements with non-governments?  
13 Certainly we do. There's quite a number that we  
14 have joint project agreements for a variety of  
15 purposes. We have, for example, agreements with  
16 -- financial agreements with the Marine  
17 Conservation Caucus so they can participate, for  
18 example, in advisory processes.

19 Q That's Jeffery Young?

20 MR. RYALL: It's -- the agreement is through the  
21 Watershed Watch is the umbrella organization that  
22 -- where the funding goes to.

23 Q Okay. Are there other agreements than...?

24 MR. RYALL: Well, there's a -- there's agreements in  
25 different fashions one way or the other around  
26 joint project agreements to undertake salmon test  
27 fishing, for example --

28 Q Right.

29 MR. RYALL: -- that are embarked upon, as well.

30 Q All right. Thank you. And my last document is  
31 Tab 56. And Mr. Ryall, can you identify this  
32 document?

33 MR. RYALL: This is a working document that I put  
34 together and has input from quite a number of  
35 staff within the Pacific Region. These are Marine  
36 Stewardship Certification deliverables and their  
37 status for sockeye. So the conditions 1 through  
38 whatever, 36, and what the deliverable is, a bit  
39 of a description and -- on a number of them, who's  
40 accountable, what the deliverable timelines are  
41 and as we move to the right on this table and the  
42 last certification condition deadline is denoted  
43 as whether it's to be for the surveillance that's  
44 undertaken by the MSC. And last is what the  
45 status is. Now, the status is my view of the  
46 status.

47 Q Right.

1 MR. RYALL: And --

2 Q Can you just -- my final question, just is what's  
3 the present -- what is the present status of how  
4 it's going?

5 MR. RYALL: We had an audit May 10th, 11th and 12th on  
6 sockeye with the MSC. We expect to see a report  
7 from them within -- they have 30 days to provide  
8 that report back. My expectation is that we've  
9 made significant progress on meeting what's  
10 identified for the conditions identified for the  
11 first surveillance audit. And I think like any  
12 sort of planning exercise, we're ahead on a number  
13 of them and we'll be behind on some and that's  
14 because you learn things as you go and you need to  
15 do -- make some changes to plans. But my overall  
16 view of what occurred at the audit is that I think  
17 I would expect a favourable outcome and we're  
18 going to continue to meet these timelines.

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

20 THE REGISTRAR: Do you wish that marked? Tab 56, 969.

21 MR. TIMBERG: Thank you very much.

22  
23 EXHIBIT 969: Summary of Key MSC  
24 Certification Deliverables and their Status  
25 for Sockeye - May 30, 2011  
26

27 MR. WALLACE: Thank you, Mr. Timberg. Next on my list  
28 I have Mr. Hopkins-Utter, who gave most of his  
29 time to me.

30 MR. HOPKINS-UTTER: Thank you, Mr. Commissioner. Mr.  
31 Hopkins-Utter for the B.C. Salmon Farmers  
32 Association.  
33

34 CROSS-EXAMINATION BY MR. HOPKINS-UTTER:  
35

36 Q I just had one question for Mr. Ryall on the  
37 question that was just put to you. You were  
38 saying that the MCC is -- has the -- is it joint  
39 participation or what was the term, the joint  
40 agreement that you have with the MCC?

41 MR. RYALL: There's a financial contribution agreement  
42 with -- I guess the way I would phrase it, with  
43 the Marine Conservation Caucus, and that is to  
44 provide funding to attend meetings. They also  
45 undertake some workshops to provide some  
46 assistance in preparation for attending those  
47 meetings.

25

PANEL NO. 39

Cross-exam by Mr. Hopkins-Utter (BCSFA)

Cross-exam by Mr. Leadem (CONSERV)

1 Q And you said that was funded by the Watershed  
2 Watch?

3 MR. RYALL: No. The funding goes to the Watershed  
4 Watch. It's -- and under that they're the legal  
5 entity that we provide funding to and there's  
6 agreements with other organizations so that they  
7 participate in the Marine Conservation Caucus.

8 MR. HOPKINS-UTTER: Okay. Thank you. Those are my  
9 questions.

10 THE REGISTRAR: Excuse me, before we start, we're still  
11 getting cell phone interference. If we have any  
12 cell phones or BlackBerries on would you please  
13 turn them off?

14 MR. LEADEM: Leadem initial T. for the Conservation  
15 Coalition, Mr. Commissioner. And for the benefit  
16 of Mr. Lunn, I expect to be primarily looking at  
17 Tabs 14, 15 and 16 of the Commission documents,  
18 Tab 15 I note has already been marked as Exhibit  
19 951.  
20

21 CROSS-EXAMINATION BY MR. LEADEM:  
22

23 Q If I could have Tab 14 of the Commission's  
24 documents. It appears to be a 2011 action log  
25 from the Strategic Directions Committee. Did we  
26 get any evidence about what the Strategic  
27 Directions Committee was and if not, maybe Mr.  
28 Ryall or Mr. Saunders, you can elaborate on what  
29 it is?

30 MR. RYALL: Are you asking what this committee does and  
31 its terms of reference?

32 Q Yes. I'm trying to get an idea -- let me ask you  
33 this first. Who sits on that committee? Do  
34 either of you gentlemen sit on that committee?

35 MR. RYALL: I'm not a member of that committee, no.  
36 I've attended that committee to provide  
37 presentations to it in the past but I was not in  
38 attendance at this particular one.

39 Q I take it that it's a fairly high level committee;  
40 is that correct?

41 MR. RYALL: Yes. It's made up of senior management in  
42 the Pacific Region. It would be chaired by -- it  
43 is chaired by the Regional General Director, RDG,  
44 and there would be regional directors in  
45 attendance from Fish Management, from Science, for  
46 example, and other operational branches and also  
47 some area directors would be, so it's senior

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1 management within the region. It's a subset --  
2 put it in other words, it's a subset of the RMC  
3 which is the Regional Management Committee.  
4 Q Okay. And from time to time, people such as  
5 yourself may come and give presentations to this  
6 particular committee; is that fair to say?  
7 MR. RYALL: That's correct.  
8 Q All right. Mr. Saunders, is that...?  
9 MR. SAUNDERS: Yes, that's my understanding and  
10 occasionally have been there. It would be very  
11 similar to the makeup that would be almost  
12 identical to the Operations Committee that we  
13 discussed yesterday, but the purpose of it is  
14 slightly different in that it's looking towards  
15 policy or changes that might be considered by the  
16 department going forward. So as the name  
17 suggests, strategic directions.  
18 Q So it appears that from this action log and April  
19 14th of this year, that this particular committee  
20 met to talk about specifically Wild Salmon Policy  
21 Strategy 4; is that correct?  
22 MR. RYALL: Yes, that's correct. There's a  
23 presentation that is in the records, as well.  
24 Q All right. We'll get to that in a moment. That's  
25 -- there's a deck presentation that has already  
26 been referenced and has been exhibited. I'm  
27 curious, did you see this action log at the time  
28 that it was generated, either one of you?  
29 MR. RYALL: I did not.  
30 Q Mr. Saunders?  
31 MR. SAUNDERS: I did not.  
32 Q So essentially it's something that would be shared  
33 with you perhaps after the fact or is it  
34 commonplace for you people on the ground to  
35 actually receive action logs and what is going on  
36 from the upper levels in your department?  
37 MR. SAUNDERS: This would have come back to us through  
38 the WSP Implementation Team, so Amy Mar as the  
39 lead for that, would have been the person and she  
40 would have reported the outcome of this back to  
41 the implementation team and we would have  
42 discussed the implications of the direction that  
43 we got.  
44 Q Under this document, under the heading "Next  
45 Steps" about midway down it, I find these words:  
46  
47 It was agreed there has been lots of work

1 completed on the pilots and foundational work  
2 under WSP but how do we move forward? There  
3 was agreement to move forward with the  
4 general approach outlined in the presentation  
5 with the following guidance...  
6

7 And then there's a number of bullets. The  
8 presentation I take it to be the presentation that  
9 you very briefly reviewed with your counsel as the  
10 deck and we've now marked as Exhibit 951; is that  
11 right?

12 MR. RYALL: That's correct.

13 Q So the second bullet down I find to be  
14 interesting. It says:

15  
16 Need to clearly identify roles and  
17 responsibilities as a department and a  
18 region, as well as how we, DFO, plan to move  
19 forward in this.  
20

21 Was this communicated to you in the -- on the  
22 ground as to what kinds of roles and  
23 responsibilities the department or the region  
24 would play in terms of WSP implementation?

25 MR. RYALL: Well, maybe just reflecting back on  
26 yesterday, I've not been working on salmon for  
27 awhile. I'm not currently working on the Wild  
28 Salmon Policy file and so it wouldn't be directly  
29 communicated back to me.

30 Q Am I fair in suggesting that the reason that the  
31 Strategic Directions Committee was meeting on  
32 April the 14th was -- had very much to do with  
33 this commission, the work of this commission?

34 MR. RYALL: No, I think this is ongoing work of the  
35 department. We have a task at hand of moving  
36 ahead on implementation of the Wild Salmon Policy  
37 and it's not in reaction. It's -- we had a number  
38 of other documents that showed that over the years  
39 that we've gone either through the direction of  
40 the Strategic Direction Committee or the  
41 Operations Committee and it's ongoing work that  
42 needs to be done.

43 Q If you look at the next page, at the very top of  
44 the page, there's a reference in the first full  
45 bullet there that says:

46  
47 The Cohen Inquiry report and recommendations

1 will be released next year and we need to  
2 build this into the equation. Recognition  
3 that work done now will help the department  
4 prepare to respond to Cohen findings and  
5 recommendations.  
6

7 Has that been communicated down to you on the  
8 ground?

9 MR. RYALL: Well, I think, you know, my earlier answer  
10 was that I'm not currently active on the Wild  
11 Salmon Policy. I'm sure it's been communicated to  
12 others that have, as Mark indicated. There is an  
13 implementation team. They meet on a regular basis  
14 and the discussion and outcome of this would have  
15 been communicated to them.

16 Q And the third bullet down on that page says:

17  
18 What approach are we taking to identify  
19 priority CUs?  
20

21 And that's a topic I want to come back to.  
22

23 General agreement that we need to identify  
24 priority CUs consistent with Action Step 4.1,  
25 also a question of what level of consultation  
26 will be required.  
27

28 Has anybody reported from management down to you  
29 about the level of consultation that you will need  
30 to undertake with respect to determining priority  
31 CUs?

32 MR. RYALL: Are you asking myself or just the panel at  
33 general?

34 Q I'm asking -- well, I'm asking you two gentlemen  
35 from DFO. I don't -- Mr. Young and Mr. Morley,  
36 you can certainly chime in, if you've been  
37 consulted with respect to identification of  
38 priority CUs. Well, maybe I'll start with them  
39 and give you a little bit of chance to think about  
40 this, Mr. Ryall and Mr. Saunders.

41 Mr. Morley, have you ever been consulted with  
42 respect to priority CUs and how that process is  
43 going to unfold?

44 MR. MORLEY: No, I have not.

45 Q Mr. Young?

46 MR. YOUNG: No.

47 Q So is there a plan in place with respect to

1 consultations on how we're going to identify  
2 priority CUs?

3 MR. RYALL: I'm going to turn this over to Mark to talk  
4 about how we are planning on moving ahead on  
5 consultation -- not on consultation but  
6 identification of priority CUs.

7 MR. SAUNDERS: Yes, I'm not aware of an overarching  
8 plan to consult regarding priority conservation  
9 units. My work is primarily in the identification  
10 of the benchmarks and the various components that  
11 will feed into the prioritization discussion. But  
12 I'm not -- I don't -- I'm not the person to ask.  
13 We had hoped that Amy Mar would be with us in this  
14 panel, but she's the one that's got the hands-on  
15 -- the linkage between what's coming out of these  
16 types of direction that we're getting and how it's  
17 relayed and built upon by the implementation team.

18 MR. LEADEM: All right. Mr. Commissioner, might this  
19 be marked as the next exhibit in these  
20 proceedings, please?

21 THE REGISTRAR: Exhibit 970.

22  
23 EXHIBIT 970: Strategic Directions Committee  
24 2011 Action Log  
25

26 MR. LEADEM:

27 Q I want to now go to the actual deck that's been  
28 marked as Exhibit 951. It's also found at Tab 15,  
29 Mr. Commissioner of the commission's documents.  
30 Prior to your testifying here, had you seen this  
31 deck before? Had you seen it, for example, in  
32 April of 2011 as it was being prepared?

33 MR. RYALL: I had, yes.

34 Q You had?

35 MR. RYALL: Yes.

36 Q Did you have a hand in preparing this, Mr. Ryall?

37 MR. RYALL: The lead in preparing this was Corey  
38 Jackson. I did discuss this deck with Corey,  
39 along with some other colleagues, Jeff Grout, as  
40 this was being prepared, and provided input.

41 Q All right. I was wondering if I could just  
42 briefly go over some of these slides with you. If  
43 I could ask Mr. Lunn to pull up Slide number 4,  
44 Strategic Considerations. And under the second  
45 bullet I found this comment to be a bit vague, so  
46 I'm hoping that I can get some information fleshed  
47 out from either you, Mr. Saunders, or you, Mr.

1 Ryall. It says:

2  
3 DFO holds some (but not all) of the policy  
4 and management "levers"

5  
6 Which ones don't you hold? Which policy and  
7 management levers does DFO not hold?

8 MR. RYALL: Well, I can think of two significant ones  
9 dealing with water and habitat that the DFO does  
10 not.

11 Q And that would be the province that holds those  
12 management levers, as it's worded here; is that  
13 correct?

14 MR. RYALL: That's correct. I don't know if Mark wants  
15 to add to that.

16 MR. SAUNDERS: That would be my response, as well.

17 Q And what consultations are taking place right now  
18 with the province with respect to Wild Salmon  
19 Policy implementation, specifically with regard to  
20 water and habitat?

21 MR. RYALL: I'm not involved in that area, so I can't  
22 answer that question.

23 Q Mr. Saunders, can you answer that question?

24 MR. SAUNDERS: I'm not involved either, but I do  
25 understand there are some direct discussions  
26 around water management are taking place, but I'm  
27 not involved.

28 Q Now, the third bullet down determines:

29  
30 Linkage between Strategy 4 and other  
31 initiatives, both internal and external

32  
33 And Mr. Ryall, you already pointed out some  
34 significant linkages between Strategy 4 and the  
35 MSC certification; is that correct?

36 MR. RYALL: A number of the conditions that are  
37 outlined in the sockeye certification are linked  
38 to Wild Salmon Policy implementation, yes.

39 Q There's also a reference to high stakeholder  
40 expectations regarding WSP Strategy 4 and pilots.  
41 And I'm going to turn over to you, Mr. Morley and  
42 Mr. Young, do you have high expectations with  
43 respect to Strategy 4?

44 MR. YOUNG: Yes. I think as indicated earlier,  
45 Strategy 4 is a key kind of application  
46 implementation component of the Wild Salmon Policy  
47 and therefore, that's partly why we put so much

1 effort into reviewing and providing input on that  
2 material through some of our own reports and also,  
3 yeah, just simply that we see it as a key  
4 implementation element.

5 Q And Mr. Morley?

6 MR. MORLEY: Mr. Commissioner, Strategy 4 are really  
7 the guts of the Wild Salmon Policy. It's where  
8 the rubber hits the road. All this stuff  
9 preceding that is really just -- it's not where  
10 you sit in the red or the yellow or the green  
11 zone. It's what you do about it when you're there  
12 and that's all about Strategy 4. So I think it's  
13 the critical part of this Wild Salmon Policy.

14 Q If I can now look at Slide number 7, Strategy 4  
15 Update and Progress to-Date. The third bullet  
16 down says:

17  
18 Internal and external engagement re: Strategy  
19 4  
20

21 Are either of you representatives from DFO on the  
22 panel able to tell me what types of internal or  
23 external engagement has been ongoing with your  
24 knowledge with respect to Strategy 4?

25 MR. RYALL: Well, earlier in my testimony we put in a  
26 document, a spreadsheet attached to it, that  
27 demonstrated a number of meetings that DFO has had  
28 over since 2005 and onwards about engagement. I  
29 think there's been considerable engagement on Wild  
30 Salmon Policy over the years and significant  
31 effort has been made in that area.

32 Q Is that with specific reference to Strategy 4 that  
33 those meetings occurred or is that just generally  
34 the Wild Salmon Policy?

35 MR. RYALL: They are not all -- they're not all  
36 specific to Strategy 4, no. There's Wild Salmon  
37 Policy and development of that.

38 Q Can you tell me that you've had lots of meetings  
39 and consultations with ENGOs and First Nations  
40 groups, for example, on Strategy 4 specifically?

41 MR. RYALL: I can say yes, we have had a lot of  
42 meetings around Strategy 4 and its implementation,  
43 yes.

44 Q Oh --

45 MR. RYALL: We could go back and categorize those, for  
46 example on the FRSSI implementation since 2005  
47 we've had a lot of meetings, workshops and

1 meetings and discussions around the implementation  
2 of that.

3 Similarly, on Barkley Sound, we've had quite  
4 a host of public meetings and those are ongoing to  
5 date. And similarly there's been also some in the  
6 Skeena and I would also talk about meetings that  
7 I've attended personally talking about Strategy 4  
8 with First Nations that I've attended personally  
9 and provided presentations.

10 Q And Mr. Morley, you've been a representative of  
11 the commercial fishing sector for some time with  
12 regard to the Wild Salmon Policy. Do you recall a  
13 lot of meetings specifically with respect to the  
14 implementation of Strategy 4?

15 MR. MORLEY: Mr. Commissioner, no meetings really to  
16 talk about how Strategy 4 should be implemented  
17 other than being directly involved in a couple of  
18 the cases they call pilots of implementation being  
19 the Skeena watershed process and the FRSSI  
20 process, but no real general discussion about how  
21 this should happen.

22 Q And Mr. Young, you're a representative of the  
23 Marine Conservation Caucus; do you recall specific  
24 meetings with DFO representatives around Strategy  
25 4?

26 MR. YOUNG: I agree with Rob firstly that there has  
27 been meetings around the pilots. I have been  
28 involved in some of those, not all of those.  
29 Later on perhaps I'll get a chance to comment on  
30 whether FRSSI really represents Strategy 4 well,  
31 but we did have meetings with the department  
32 following the preparation of the reports that are  
33 identified here, but beyond that, not really, no.

34 Q Well, I may not get a chance to ask you later  
35 about your evidence with respect to FRSSI, so I  
36 might as well get it from you now that you opened  
37 the door. What's your take on FRSSI and whether  
38 it's actually -- there's some linkage with  
39 Strategy 4?

40 MR. YOUNG: I think this relates to both FRSSI and  
41 Strategy 4 as well as comments that were made  
42 earlier on the whole process of developing the  
43 IFMP but essentially around -- well, firstly FRSSI  
44 is truly around fishing, so it's not comprehensive  
45 in terms of considering the habitat and ecosystem  
46 components and therefore also doesn't include  
47 stakeholders around those issues.

1           Around fishing and the IFMP itself, it's my  
2           best interpretation of the policy that essentially  
3           to be consistent with the policy we'd have to know  
4           which conservation units were being caught in a  
5           fishery, what the status of those conservation  
6           units are. For those conservation units in the  
7           red zone, a recovery plan is developed. I think  
8           that's very clear within the policy, including  
9           having a response team around that, something  
10          likely consistent with what was developed  
11          initially under the COSEWIC listing of Cultus and  
12          that clear demonstration is provided that  
13          exploitation rates on those CUs are at a level  
14          consistent with that recovery plan.

15          FRSSI doesn't do that and the IFMP itself  
16          doesn't include that information either.

17        Q     Thank you. Mr. Morley, do you have any comments  
18           with respect to FRSSI and your knowledge of it and  
19           how it works?

20        MR. MORLEY: Mr. Commissioner, I would generally agree  
21           with virtually all the comments that Mr. Young has  
22           just made to do with FRSSI and I think it's again  
23           symptomatic of the -- it is definitely not  
24           comprehensive and it's really focused really on  
25           harvest management and clearly not comprehensive  
26           in the way the Wild Salmon Policy would indicate  
27           you should be planning under Strategy 4. Now, it  
28           -- so while it has some of the elements - and I've  
29           also suggested the way in which socioeconomic  
30           analyses have been done within FRSSI is not  
31           adequate with respect to what I would expect to  
32           see under Strategy 4.

33        MR. LEADEM: I'm going to go back to the -- I note the  
34           time, Mr. Commissioner. I don't know when you  
35           would like to take a break. I have a few more  
36           minutes of questions.

37        THE COMMISSIONER: Why don't we take a break at this  
38           point?

39        MR. LEADEM: Thank you.

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

41        MR. PROWSE: Excuse me, Mr. Commissioner. Mr.  
42           Commissioner, Cliff Prowse --

43        MR. WALLACE: Oh, Mr. Prowse. I'm sorry.

44        MR. PROWSE: As I understand the rules we play by here  
45           in terms of talking to witnesses because Mr.  
46           Hopkins asked a minute of questions that these  
47           witnesses are now in cross-examination, the usual



1 rules, we can't talk to them. I would like to be  
2 able to speak to Mr. Morley, who's not  
3 represented, and who's been largely silent for the  
4 last time and just make sure there are not things  
5 that he wants to cover, particularly with respect  
6 to marine certification. So I would ask leave to  
7 be able to do that.

8 THE COMMISSIONER: Unless your friends have some  
9 objection, Mr. Prowse, I don't have a concern  
10 about that. I don't know if anyone of counsel  
11 would have a concern. Mr. Wallace?

12 MR. WALLACE: Mr. Commissioner, perhaps Mr. Prowse  
13 would not object if I joined in that conversation,  
14 if that might be helpful.

15 THE COMMISSIONER: Well, he's smiling. I gather that  
16 means that he has no objection.

17 MR. PROWSE: Yes.

18 THE COMMISSIONER: Do you have an objection?

19 MR. PROWSE: I think anybody should be able to join in  
20 that conversation. Thank you, Mr. Commissioner.

21 THE COMMISSIONER: Thank you very much.

22 THE REGISTRAR: Hearing will now recess for 15 minutes.  
23

24 (PROCEEDINGS ADJOURNED FOR MORNING RECESS)  
25 (PROCEEDINGS RECONVENED)  
26

27 THE REGISTRAR: Hearing is now resumed.  
28

29 CROSS-EXAMINATION BY MR. LEADEM, continuing:  
30

31 Q Before the break, gentlemen, we had been  
32 discussing Exhibit 951, and we had been examining  
33 Slide 7. Before I leave Slide 7 for another  
34 slide, I want to get your comments on, I note that  
35 the last bullet on that slide references guidance  
36 papers and analysis, partial list. And there's a  
37 few of them there. The Sandy Fraser papers, which  
38 we've now marked as exhibits on planning units and  
39 interim guidance for integrated plans, they're  
40 part of the guidance papers that informs the  
41 discussion at DFO with respect to Strategy 4; is  
42 that correct?

43 MR. RYALL: That's correct.

44 Q And then Julie Gardner's report on the DFO  
45 workshop which we've also very recently marked as  
46 an exhibit is there and that helps inform the  
47 discussion on Strategy 4; is that right?

1 MR. RYALL: That was the intent, yes.  
2 Q Right. And then Julie Gardner's work that she did  
3 while she was with Dovetail for Watershed Watch  
4 Suzuki Foundation, are you familiar with that  
5 report, Mr. Ryall?  
6 MR. RYALL: Not really.  
7 Q All right. Mr. Saunders, are you familiar with  
8 that report?  
9 MR. SAUNDERS: I've read the report but can -- not  
10 recently.  
11 Q Okay.  
12 MR. SAUNDERS: Yes.  
13 Q Maybe just to see if I can refresh your memory,  
14 Exhibit 244, I think is -- is it 244 or 224? I  
15 can't recall now.  
16 MR. LEADEM: I'm becoming dyslexic in my waning years,  
17 Mr. Commissioner. You have to forgive me. There  
18 it is. Thank you, Mr. Lunn. I knew I could count  
19 on him. Is it 244?  
20 MR. LUNN: 224.  
21 MR. LEADEM: 224, thank you.  
22 Q Is this the report, Knowledge Integration and  
23 Salmon Conservation and Sustainability Planning,  
24 that you read a long time ago, Mr. Saunders?  
25 MR. SAUNDERS: That's correct, yes.  
26 Q All right. Mr. Young, this report was  
27 commissioned by Watershed Watch along with David  
28 Suzuki Foundation. Once again, why was a report  
29 like this commissioned?  
30 MR. YOUNG: Given our perspective of the importance of  
31 Strategy 4 to the implementation of the policy, we  
32 commissioned this report to try to facilitate that  
33 implementation.  
34 Q Okay. And then going back now to Slide 7, the  
35 Marc Nelitz paper for the Suzuki Foundation of  
36 March 2009, are either of you gentlemen from DFO  
37 familiar with that work?  
38 MR. RYALL: Yes, I've read the report.  
39 Q All right. And just for reference, I think it's  
40 Exhibit 937, Mr. Lunn, if I could just pull it up  
41 briefly, just to make sure. It's entitled  
42 "Returning Salmon Integrated Planning and the Wild  
43 Salmon Policy in B.C." Have you read that report,  
44 Mr. Saunders?  
45 MR. SAUNDERS: Yes.  
46 Q And does that provide some guidance and analysis  
47 with respect to Strategy 4 that is of some benefit

1 to DFO?

2 MR. SAUNDERS: Yes, I would say it is, yes.

3 Q Could we now have Tab 8, please? Or, sorry, Slide  
4 8.

5 MR. LEADEM: Not used to sitting on Fridays, Mr.  
6 Commissioner. It's usually my informal day.

7 Q I found this graph to be quite interesting because  
8 diagrammatically it attempts to place WSP planning  
9 units on a scale of how it's going to fit in and  
10 if I interpret the graph correctly -- well, let me  
11 ask you first. Mr. Ryall, you're familiar with  
12 this depiction?

13 MR. RYALL: Yes, I am.

14 Q All right. So if I have it right, at the bottom  
15 of this pyramid, you start with individuals - you  
16 use some 400 in number, because we're talking  
17 about all of the salmon within B.C.; is that  
18 right?

19 MR. RYALL: That's correct.

20 Q And then from there as you move up, you encounter  
21 something called management units. What are  
22 management units? How are they fitting into the  
23 scheme? Are they the aggregate runs or the  
24 management units are the stock timing groups? I'm  
25 not sure what management units are.

26 MR. RYALL: Well, it's discussed in the Wild Salmon  
27 Policy as well that one would put together  
28 management units. Using Fraser River sockeye as  
29 the example we have four management units: Early  
30 Stuart, Early Summers, Summers and Lates, so  
31 they're going to be a combination of conservation  
32 units and the graph that we showed earlier shows  
33 the linkage between management units and  
34 conservation units.

35 Q And so moving then up, we've got Wild Salmon  
36 Policy planning units and are they meant to take  
37 into consideration the CUs, somehow -- is that how  
38 they're supposed to work?

39 MR. RYALL: Yes. They would be taken into account,  
40 CUs. I think we've -- you know, we've heard  
41 testimony from all of the panel members here about  
42 the challenges of how to -- and what scale to  
43 undertake the strategic plans. And it's our view  
44 that within DFO is that we're not going to develop  
45 those strategic plans on a scale of CUs, but we'll  
46 be -- take those into account broader. There's a  
47 lot of biological reasons for doing that and also

1 where these fish are harvested. And as, you know,  
2 I talked about earlier, it's my view that the  
3 FRSSI process does represent a Wild Salmon Policy  
4 implementation and why do I say that? Is it  
5 perfect? No. That's not my testimony. It's not  
6 perfect and it doesn't encompass everything. It  
7 did not, I would agree with Mr. Young and Mr.  
8 Morley that it doesn't include the habitat and  
9 ecosystem parts, but it includes a very important  
10 part of Wild Salmon Policy which is specifying  
11 biological targets for conservation units and  
12 groups of conservation units to ensure  
13 conservation and sustainable use.

14 So the issue around developing FRSSI to me is  
15 a portion of implementation of WSP, and one  
16 doesn't -- not going to wait till you have all the  
17 answers. You need to act and put those pieces  
18 together, and to me it's a really fundamental  
19 piece of Wild Salmon Policy implementation. And I  
20 think, as well, this concept of response teams, I  
21 don't personally think that there's one answer  
22 that fits all in response teams and I note in the  
23 actual Wild Salmon Policy document that response  
24 teams is in quotations, meaning that there is a  
25 lack of prescription around what a response team  
26 is and I think that's one of the things that we  
27 have struggled with. What is a response team  
28 going to look like? Are you going to have a body  
29 sitting, working on one conservation unit? Are  
30 you going to bring these people together at  
31 particular times? And I think that's why, you  
32 know, we need to carefully consider what a  
33 response team is and what its tasks are going to  
34 be.

35 Undertaken in the work that Sandy did,  
36 underlined a template and it's not meant to be  
37 prescriptive either. It's meant to be a guide of  
38 how one would develop an integrated strategic  
39 plan.

40 Q All right. I thank you for that answer. And  
41 right at the pinnacle of this pyramid you have the  
42 Integrated Fisheries Management Plan. I just want  
43 to turn to you, Mr. Morley and Mr. Young. Do you  
44 have any comments on this schematic depiction of  
45 how conservation units and Wild Salmon Policy  
46 planning units are depicted here? Maybe I'll  
47 start with you, Mr. Young.

1 MR. YOUNG: If possible I'd like to comment on both,  
2 and particularly the definition of a management  
3 unit, as well as the term "prescription" that Paul  
4 Ryall used. I'll start with management units.

5 The first is that my interpretation of the  
6 policy is that a management unit could be an  
7 appropriate unit for management in so much as it  
8 adequately represents the component CUs, in  
9 particular that decisions made around a management  
10 unit ensure that the components used are  
11 adequately protected, for example. If there's a  
12 CU in the red zone that -- exploitation rate is  
13 assigned to a management unit, that it's  
14 consistent with maintaining that exploitation rate  
15 for recovery at the CU level.

16 With respect to FRSSI and the management of  
17 the Fraser sockeye fisheries I do not see the four  
18 timing aggregates as consistent with that  
19 definition of a management unit for a number of  
20 reasons. One is that it does not -- it is not  
21 reflective of the component CUs; two, assignment  
22 of the stocks that are used in that, I think, is  
23 problematic. I think it's fairly loosely  
24 associated with timing. I think there's some  
25 stocks that are kind of misassigned within that  
26 and that as a result exploitation rates targeting  
27 on one management unit do not result in a  
28 consistent impact on component CUs or the stock  
29 CUs there, so that's one problem.

30 With respect to prescription, if it's okay if  
31 we go to Appendix 2 of the Wild Salmon Policy.

32 Q That's Exhibit 8.

33 MR. YOUNG: I'll agree with Mr. Ryall that the response  
34 team element is relatively un-prescriptive, but  
35 what is prescriptive within the policy is  
36 essentially what, as a baseline, needs to be done  
37 with respect to CUs and that's particularly CUs in  
38 the red zone. So in the very beginning of Step 1  
39 I think it clearly identifies some of the  
40 elemental steps of WSP implementation and that we  
41 need to start with an understanding of CUs  
42 exploited in the fishery, what their status is,  
43 habitat and ecosystem constraints for each of  
44 these CUs and then, in particular, for CUs in the  
45 red zone, more detailed reports will also be  
46 provided as they become available. They'll  
47 incorporate ATK.

1                   And then if we go -- I don't think it's  
2                   necessary to go there, but if we go into Strategy  
3                   4 within the WSP, as well, it provides that  
4                   prescription about the need to develop recovery  
5                   plans for CUs in the red zone. So this is the  
6                   place I think we need to get to around fisheries,  
7                   as well as habitat and ecosystem management and  
8                   that we're clearly not there yet.

9                   Q    Mr. Morley, did you want to add anything?

10                  MR. MORLEY: I would like to add that just that  
11                  schematic you had up previously with the pyramid  
12                  there, and it -- it sort of expands a little bit  
13                  on what Jeffery is saying here is that the whole  
14                  way this is directed sort of heading up to an IFMP  
15                  is really -- tends to result on -- and the  
16                  terminology of management units really is focusing  
17                  on the whole area of harvest management as opposed  
18                  to a holistic view of the world. And I think just  
19                  taking the example of my involvement in the Cultus  
20                  Lake Recovery Team as an example of dealing with a  
21                  CU that clearly is going to be in the red zone is  
22                  that the evidence from that experience is -- was  
23                  that while over-harvesting may have been a  
24                  contributing factor to the decline of Cultus that  
25                  certainly all the evidence when we looked at it in  
26                  detail and the threats it's currently facing and  
27                  the issues that need to be addressed if you're  
28                  actually going to rebuild that are that harvest  
29                  management was the least of the issues that was a  
30                  problem going forward, given the rate we've cut  
31                  back harvest in recent years and that unless the  
32                  holistic view is taken to deal with the issues of  
33                  fresh water productivity and survival, looking at  
34                  what was happening to these fish en route and  
35                  early entry and looking at oceans viable, that in  
36                  fact it did not matter what you did in harvest  
37                  management, whether you harvested at zero percent  
38                  or at 50 or 60 percent, that you could never  
39                  possibly hope to rebuild Cultus sockeye. And  
40                  using that example and saying that we're now  
41                  developing a planning process, it's still really  
42                  focused on how we're harvesting these fish and  
43                  doesn't incorporate a number of the other areas, I  
44                  think is a major problem of import. I do agree  
45                  though that the idea that we're going to develop  
46                  comprehensive strategic plans for 400 CUs is not  
47                  going to happen, and that we do need to find some

1 way to aggregate these and I do believe that  
2 looking at something that is more focused on  
3 watershed or broader areas is a -- as developing a  
4 long-term strategic plan is the right approach to  
5 go.

6 But we certainly still need to deal with what  
7 the implications are for individual CUs in the red  
8 zone and what the options are in dealing with them  
9 and where we're going on those in a more holistic  
10 way.

11 Q Thank you. If I can now look at Slide 12, you  
12 should have a slide that shows Gaps, Challenges  
13 and Opportunities. And under the heading:

14  
15 Resources (human and financial)

16  
17 So obviously you need bodies and you need money in  
18 order to make this function. And so this is now  
19 being identified as the significant gap or  
20 challenge; is that right, Mr. Ryall?

21 MR. RYALL: Yes, that's right.

22 Q And then the second one I think is also fairly  
23 instructive:

24  
25 Clarity regarding DFO's role, objectives and  
26 governance

27  
28 And there's a couple of subheadings there:

29  
30 - Role in leading or supporting planning  
31 initiatives is not always clear

32  
33 - Internal coordination is lacking in  
34 some cases

35  
36 - Lack of clear governance structure for  
37 implementation of Strategy 4

38  
39 - Lack of a strategic plan or  
40 operational guidance for Strategy 4

41  
42 So those are essentially -- you would agree with  
43 those comments, would you not, Mr. Ryall?

44 MR. RYALL: I would agree with those comments as  
45 written, yes.

46 Q  
47 Lack of a clear or consistent governance

1 structure for integrated planning processes

2

3

We talked a bit about that.

4

The need for an approach for integrating strategic plans into the Integrated Fisheries Management Plan, that needs to be done; is that correct, Mr. Ryall?

5

6

7

8

MR. RYALL: Yes. And we've heard previous questions, testimony today and yesterday about how we're planning on moving ahead on some of these things, but I think, you know, just a recent conversation we had about the complexity of what sort of scale is one going to develop these around, some of those challenges.

10

11

12

13

14

Q And then some of the opportunities are:

15

16

Increased role for First Nations, others via co-management initiatives

17

18

19

Is that moving forward, to your knowledge?

20

MR. RYALL: Yes, it is.

21

Q And then there's a reference to the:

22

23

Province of BC (Living Rivers) funding and capacity...

24

25

26

And the changes to the **Water Act**. You're familiar with the so-called modernization of the **Water Act**, the Provincial **Water Act**, are you?

27

28

29

MR. RYALL: Yes, I am.

30

Q And so there's a challenge and an opportunity at the same time with respect to liaison with the province with respect to this modernization of the **Water Act**; is that fair to say?

31

32

33

34

MR. RYALL: I think there's an opportunity there and I think that we need to take advantage of that and work with the province.

35

36

37

Q And so then if I look at the next slide, "Proposed Approach", number 13, there are some solutions being proposed and you read through these. I'm not going to go through them in the interest of time, but you would agree with these approaches in order to address some of the challenges and gaps that we've just reviewed?

38

39

40

41

42

43

44

MR. RYALL: I would. The intent of this presentation was to provide the previous slide that we talked about the gaps and the challenges and get some

45

46

47



1 discussion and direction from the committee on the  
2 proposed approach.

3 Q And then under the next slide, number 14:

4  
5 Potential Next Steps  
6

7 And these are defined in aspects of time and  
8 there's actually some discrete time intervals  
9 here. So in the short term, May through December  
10 of 2011 FAM, that's the Fisheries Aquaculture  
11 Management, is that what that acronym stands for?

12 MR. RYALL: That's correct.

13 Q I'm getting better at this.

14 MR. RYALL: Yeah.

15 Q I used to see these acronyms and sort of panic,  
16 but I guess I'm becoming too inured to DFO --

17 MR. RYALL: Well, not to upset you --

18 Q -- language.

19 MR. RYALL: Not to upset you, but we changed the name  
20 on FAM.

21 Q Please don't do that, Mr. Ryall. We lawyers don't  
22 like it when you start changing names on us.

23 MR. RYALL: We just took an "A" out, that's all.

24 Q The short term says:

25  
26 FAM / Science undertake rapid assessment to  
27 determine priority CUs  
28

29 So the expectation is is that within the next six  
30 months there's going to be -- and I was going to  
31 be glib and ask you what "rapid" was in the  
32 context of DFO, but I'm not going to go there with  
33 you. But "undertake rapid assessment to determine  
34 priority CUs", so essentially this priority CUs --  
35 there's something that's going to unfold in the  
36 next six months about that determination and are  
37 you aware in your roles, either you, Mr. Saunders,  
38 or Mr. Ryall, how that's going to unfold?

39 MR. SAUNDERS: Well, I'm certainly aware of the rapid  
40 assessment approach, so that's a key part of my  
41 responsibility.

42 Q Right. And so is that part of that approach is to  
43 make sure that the Sue Grant paper which looked at  
44 benchmarks for some of the conservation units and  
45 which ones specifically with respect to Fraser  
46 River sockeye I'm speaking, and specifically with  
47 what conservation units are in the red zone, is

1           that what we're -- what is meant here by this  
2           assessment to determine priority CUs?  
3       MR. SAUNDERS: We're certainly undertaking the  
4           development of that rapid assessment technique.  
5           It's not meant to be absolutely definitive. It's  
6           more to guide planning going forward. So I  
7           wouldn't -- it's not the final word on status, but  
8           it's certainly intended to inform prioritization  
9           and work going forward, planning for priority CUs.  
10          I can't say that I fully am engaged in  
11          understanding how we're going to move forward on  
12          identification of those priority CUs 'cause as  
13          I've said before, it's more than just the  
14          conservation priority that needs to be included in  
15          that.

16       Q     Right. And the couple of the other bullets I just  
17           want to highlight very quickly. The third one  
18           down -- sorry, the last one under short-term, it  
19           says:

20  
21                   Develop an approach for inclusion of socio-  
22                   economic information (NHQ paper)

23  
24           I take that to be National Headquarters; is that  
25           right, Mr. Ryall?

26       MR. RYALL: That's correct.

27       Q     Is there such a paper? Have we already seen that?

28       MR. RYALL: No, I don't believe we have.

29       Q     So the Gislason paper and some of the other  
30           material that your counsel submitted into  
31           evidence, that's not what is meant by  
32           socioeconomic information in the context of WSP?

33       MR. RYALL: No. Those were papers that I contracted  
34           here within the Pacific Region.

35       Q     All right. Could we now move to Tab 16 of the  
36           commission documents, please? So the heading on  
37           this is:

38  
39                   Strategic Directions Committee Discussion  
40                   Paper

41  
42           Have either of you seen this at the time that it  
43           was being prepared? If you go to the second page,  
44           it might help you with respect to the date and the  
45           author. The author appears to be Corey Jackson,  
46           approved by Rebecca Reid, the date is April 14th,  
47           2011 and the date submitted to the Strategic

1           Directions Committee was April 7, 2011. Did  
2           either of you have a hand in drafting this or  
3           vetting this paper before it went to the SDC?

4       MR. RYALL: I don't recall this. I mean, this is a  
5           paper here that Corey put together as linked to  
6           the presentation that we just went through.

7       Q       Yes.

8       MR. RYALL: I don't recall whether I commented on this  
9           or not.

10      Q       Okay. Mr. Saunders, do you recall seeing this at  
11           all?

12      MR. SAUNDERS: I don't recall, but that doesn't mean I  
13           didn't. I'm not familiar with it though.

14      Q       Okay. I take it that you -- you see a lot of  
15           documents and a lot of papers cross your desk on a  
16           fairly regular basis, so are you guys suffering  
17           from too many papers, too many memos, too many  
18           emails?

19      MR. RYALL: It's one of my challenges.

20      Q       We're in the same boat there, Mr. Ryall. Let me  
21           go back, because I understood that this paper was  
22           basically prepared leading up to the SDC meeting  
23           of April 14th, 2011; do I have that right?

24      MR. RYALL: I believe you do. It was to be a piece  
25           that would go with it. But I don't recall the  
26           actual content in here, so I'm not -- can't really  
27           help you on that.

28      Q       And I want to just focus in the brief time I have  
29           remaining to the next steps. We saw some of the  
30           next steps - and I'm at page 2 of the document,  
31           Mr. Lunn, at the very end. We're right there.  
32           And I want to talk about over the longer term,  
33           January 2012 and beyond work would include:

34  
35                   Initiate "interim" planning processes for  
36                   high priority CUs

37  
38           And then it says:

39  
40                   Develop draft "framework" for long-term  
41                   integrated planning process

42  
43           And I just want to see if I can understand what is  
44           meant by the department when it refers to long-  
45           term integrated planning process. Can you provide  
46           some information to me, Mr. Ryall or Mr. Saunders,  
47           about what the department means when it says the

1 long-term integrated planning process?

2 MR. RYALL: Well, what I see in this is I guess really  
3 two pieces. One is -- and hence the process piece  
4 of this is what is the governance and how you're  
5 going to undertake these and the other is as we've  
6 talked about quite a bit today is around what the  
7 scale of -- so you need to determine the scale  
8 before you can really determine the process.

9 Q Yes.

10 MR. RYALL: And my experience has been that you're not  
11 going to find one exact solution around the  
12 Pacific Region and there's different interests in  
13 different parts of the region and who would  
14 participate. I participated and attended meetings  
15 with representatives of the Fraser basin,  
16 municipal level and in some of those areas very  
17 much -- they're very much interested in  
18 participating and others not so much. And so  
19 that's what I think this bullet is referring to is  
20 to come up with some ideas and take the work that  
21 we talked about earlier that Sandy Fraser has  
22 talked about, about a long-term integrated  
23 planning process.

24 I think that there's various aspects under  
25 development within the department that I'm aware  
26 of already on a recovery rebuilding program, but  
27 that really is more focused on harvest management  
28 again and it doesn't get to these other pieces  
29 around habitat an ecosystem. Also, there's  
30 documents that can provide us guidance that have  
31 been used in **SARA** around development of recovery  
32 plans and there's -- and action plans that could  
33 help provide some guidance. Because I really do  
34 see, you know, the long-term plans, that's the  
35 goals and the objectives and the IFMPs or the  
36 implementation and operational arm of the -- if  
37 you will.

38 Q I thank you for that explanation. And then the  
39 last one, the last bullet, is consultation with  
40 First Nations and stakeholders on a proposed  
41 longer-term planning process. So under the  
42 heading stakeholders, I would assume that we're  
43 talking commercial fishing interests and we're  
44 talking sports fishing interests and we're talking  
45 also about ENGO community; is that right?

46 MR. RYALL: Those would be three key ones there. I  
47 don't know that I would limit it to that. For

1 example on the West Coast in the Barkley project  
2 there's others and local governments that are very  
3 much interested in the regional scale, as well.  
4 And so what sort of role might they play and I  
5 don't have a particular answer for you, but  
6 there's -- they've written me a number of letters  
7 about how they might see fitting into this, as  
8 well. It's pretty clear that they have rules on  
9 habitat and water use, as we've talked about, as  
10 well. So there are -- and where does the province  
11 fit into this, as well, so there's those pieces.  
12 I wouldn't really particularly call the province a  
13 stakeholder per se, but they need to be as part of  
14 this, as well.

15 MR. LEADEM: Could this now be marked as the next  
16 exhibit in these proceedings, please?

17 THE REGISTRAR: Exhibit 971.

18  
19 EXHIBIT 971: Strategic Directions Committee  
20 Discussion Paper  
21

22 MR. LEADEM:

23 Q And the last few minutes I have remaining, I want  
24 to talk to the panel about Strategy 5 because lost  
25 in the shuffle is Strategy 5. Strategy 4, as I  
26 understand it, deals with long-term planning and  
27 Strategy 5 is the annual workout of those -- of  
28 that long-term plan. And so I suppose to some  
29 extent it doesn't make sense to talk about  
30 Strategy 5 until you have Strategy 4 in place. Do  
31 I have that right, Mr. Young?

32 MR. YOUNG: I'd say partly. I do think that the  
33 strategies are somewhat sequential, so to really  
34 do Strategy 4 well we have to have the outputs  
35 from Strategies 1 to 3 and to do 5, you know,  
36 consistently in a way that allows us to evaluate  
37 Strategies 1 through 4, you're going to have to  
38 have those pieces there. However, I would suggest  
39 that having a kind of an annual plan that's  
40 reported out onto the public and other  
41 stakeholders, that we can then look at and  
42 evaluate would have been useful even prior to the  
43 completion of those strategies.

44 Q Mr. Morley, do you have any comments about  
45 Strategy 5?

46 MR. MORLEY: Nothing to add at this point, no, thank  
47 you.

1 Q All right. And Mr. Saunders or Mr. Ryall, do you  
2 want to talk about Strategy 5 at all? It seems to  
3 be getting lost in the shuffle of talking  
4 primarily about Strategy 4.

5 MR. SAUNDERS: Well, I agree that the -- there is a  
6 linear situation here in terms of the  
7 implementation and just as I would agree with Mr.  
8 Young that it's difficult to move forward. So  
9 this is really the annual implementation and  
10 continual assessment of how well you're doing, how  
11 your annual objective -- or management actions and  
12 other actions that you might be taking are moving  
13 forward in the context of the larger plan. So --  
14 but there are elements and -- of -- around, as we  
15 finish Strategy 1, the starting to assess the  
16 actual status of those conservation units, et  
17 cetera, so there are elements that, in the absence  
18 of the plan, that you'll see to start -- that  
19 start getting invoked as we've completed parts of  
20 Strategies 1 to 3.

21 Q Mr. Ryall, do you want to add anything?

22 MR. RYALL: Just to support the comments that Mark  
23 made, I think, under Action Step 5.2 - plan and  
24 conduct annual fisheries, that there are -- there  
25 is work underway in there in particular.

26 MR. LEADEM: Okay. Thank you. Those are my questions.

27 MR. WALLACE: Thank you, Mr. Leadem. Mr. Commissioner,  
28 the next on the list is Mr. Rosenbloom for 15  
29 minutes.

30 MR. ROSENBLOOM: Thank you very much. Don Rosenbloom,  
31 appearing on behalf of Area D Gillnet, Area B  
32 Seiner.

33  
34 CROSS-EXAMINATION BY MR. ROSENBLOOM:  
35

36 Q Gentlemen, I have about two hours of cross-  
37 examination for you, but as I've been afforded  
38 only 15 minutes, I'm compressing things as much as  
39 possible and to that end, Mr. Saunders, to speed  
40 things up, if you simply agree with everything  
41 that I put to you, we'll get through the 15  
42 minutes very easily.

43 MR. SAUNDERS: Understood.

44 Q Thank you. I appreciate you'll cooperate in that  
45 end.

46 In fact, I want to start with Mr. Morley for  
47 a moment and I would ask Mr. Lunn to put before us

1           yesterday's transcript at page 84 and Mr. Morley,  
2           at that -- during the inquiry yesterday you  
3           provided us with what I will describe as a very  
4           sobering and depressing prognosis for the  
5           implementation of WSP and we all recall your words  
6           of yesterday in terms of speaking of what I will  
7           describe as the unrealistic schematic as is  
8           currently the modus operandi as chosen by DFO for  
9           future implementation. You recall giving that  
10          evidence yesterday?

11       MR. MORLEY: Yes, Mr. Commissioner, I do.

12       Q     Yes. And regrettably the transcript at page 84  
13           has your remarks as attributable to Mr. Young as  
14           opposed to yourself and you would agree with me  
15           that indeed, the words as set out there at page 84  
16           line 11 are indeed your remarks and not that of  
17           Mr. Young?

18       MR. MORLEY: I'm sure Mr. Young wishes he'd said them  
19           but they were mine, yes.

20       Q     Yes. And can I have that confirmed by you, Mr.  
21           Young?

22       MR. YOUNG: I can't agree with that.

23       Q     I want you to explore a little bit further those  
24           remarks. Quite frankly, from certainly my  
25           perspective your remarks were very significant and  
26           should be obviously part of the consideration and  
27           deliberations of this commission at the end of the  
28           day. You spoke in part in -- at page 84 and on to  
29           page 85 and 86 about the concerns you had with the  
30           future direction as planned by DFO and you spoke  
31           about your experience with the Skeena Watershed  
32           Initiative and you, in fact, said at page 84 that  
33           that was about to fall apart. Some of us  
34           certainly know nothing about what would be the  
35           foundation upon which you believe the whole thing  
36           is falling apart. Can you explain to us how that  
37           initiative has relevance to where DFO is heading  
38           in respect to WSP implementation, what are the  
39           lessons and why did you say what you said  
40           yesterday?

41       MR. MORLEY: Mr. Commissioner, I think to elaborate on  
42           some of the issues I raised yesterday, and I guess  
43           it -- go back to the background that I think why  
44           DFO has adopted this consultative approach to  
45           management that is very broad and tries to be all-  
46           encompassing and tries to be inclusive and the --  
47           and we have heard from several of the DFO

1 witnesses that -- and I think it actually goes  
2 back to Mr. Sprout, the RDG, and I've had many  
3 conversations with him over the years. We both  
4 started in the department at almost a similar time  
5 and grew up through the department together and,  
6 you know, the department has a very difficult job  
7 in trying to satisfy a huge number of competing  
8 interests, and in the past they had various  
9 stakeholder groups that they would meet with  
10 independently and one group would complain with  
11 what the department is doing and saying that  
12 you're bending over backwards to satisfy the  
13 interests of the commercial sector when they were  
14 meeting the recreational sector or the First  
15 Nations or whatever, and I think the department  
16 kind of felt that they were being the ham in the  
17 sandwich and that they had to -- they were  
18 defending sort of another group, and so I think  
19 Mr. Sprout's idea at the time was if we can get  
20 everyone into the same room, then at least they  
21 can start to talk to each other and understand  
22 each other's point of view and we won't be there  
23 and between them they'll understand how difficult  
24 our job is and they may even actually agree on  
25 things and that we can reduce the areas where we  
26 have to get involved.

27 Unfortunately, although, you know, I  
28 sympathize with that point of view, what we have  
29 developed now is a system wherein these multi-  
30 stakeholder processes that the department has  
31 decided and we've heard earlier testimony by Mr.  
32 Ryall and Mr. Saunders this morning that the goal  
33 here is to bring people together to make decisions  
34 on trade-offs; that we want to sit down and agree  
35 on objectives. And I guess my problem with that  
36 approach and how it relates to what's happened in  
37 the Skeena watershed and the Wild Salmon Policy is  
38 that in fact various stakeholder groups -- as many  
39 stakeholder groups as you have, you have that many  
40 more objectives and, in fact, the objectives that  
41 groups have are sometimes the same and sometimes  
42 similar, but many times are in great conflict, and  
43 that if we sit down with the idea that we're going  
44 to agree on all the objectives, and that we are  
45 going to somehow sit down through a process after  
46 this planning process and agree on a plan that has  
47 trade-offs when some people's objectives cannot be



1 met because they're irreconcilable with other  
2 ones, that is problematic.

3 And although -- and the other part of the  
4 process we've seen in the Skeena and part of the  
5 reason that it breaks down is that the department  
6 has also developed these processes with outside  
7 facilitation involved and with again part of the  
8 reason being that they, to a certain extent, want  
9 to be seen as participants but not leaders of the  
10 process. And the result of that from an  
11 efficiency point of view is such that facilitation  
12 in these processes are people who have no  
13 background or knowledge in the subject area. They  
14 don't know, in many cases, do not know the players  
15 and it takes a long time to get them up to speed.

16 In the Skeena process, we've been through two  
17 separate sets of facilitators who are very skilled  
18 in their field, but frankly, given the groups that  
19 we have around the table here, and there's very  
20 few of them, we all know each other. We've dealt  
21 with each other for years. We, I think, have  
22 respect for each other's positions and frankly,  
23 I'd much rather see DFO chairing meetings and  
24 taking responsibility for implementing actions  
25 rather than simply being a participant at the  
26 table.

27 And so that -- what we have seen again is  
28 that when you try to get people involved, every  
29 step of this process from defining conservation  
30 units to assessing where they should be, as well  
31 as a lot of this habitat sort of the Strategy 3  
32 issues that you have a mix of technical and policy  
33 people who don't have the knowledge or skills to  
34 deal with some of those things and when they're  
35 all trying to agree on objectives from Day 1, you  
36 end up running around in circles.

37 And it goes back again to the idea that  
38 somehow we're developing a governance structure  
39 that will enable all of these participants to  
40 agree on a plan that involves trade-offs and I  
41 guess from my point of view the responsibility  
42 here is with the Department of Fisheries and  
43 Oceans constitutionally to be the manager, to  
44 manage fisheries and protect fisheries habitat  
45 that are required and that we have to get on with  
46 the job and do it and develop technical teams that  
47 will put forward all of the elements of the five-

1 step process in Appendix 2, seek input from groups  
2 where they have information to contribute to some  
3 of those elements, but really develop the options  
4 moving forward for the plan, do an evaluation of  
5 those options of the consequences and then seek  
6 input from the stakeholders as to whether they've  
7 characterized those things properly at that point.

8 Q So you want the front end loading to this process  
9 to be based upon technical committees within DFO  
10 doing that grunt work, as you used the term  
11 yesterday before it's put before stakeholders; is  
12 this correct?

13 MR. MORLEY: Yes. And where there are technical people  
14 in First Nations communities who are doing a lot  
15 of these programs and developing the data, where  
16 there are outside technical people, I don't have  
17 an issue with them being involved in --

18 Q Yes.

19 MR. MORLEY: -- developing the background information  
20 and they should be involved in that.

21 Q And you representing a stakeholder interest would  
22 seem at first blush that your testimony may be  
23 counter-intuitive to your interest in saying what  
24 you've said to the commission. Can you inform the  
25 commission whether your viewpoint as testified  
26 yesterday and today is generally supported by my  
27 clients, Area B and Area D?

28 MR. MORLEY: I believe your clients Area B and Area D  
29 are struggling with going to the number of  
30 meetings that exist already, that they're some of  
31 the few participants in these proceedings who are  
32 there paying entirely their own way and may in  
33 many cases be missing out on income generation  
34 opportunities to participate in these processes.  
35 Most of the other groups involved are either paid  
36 a salary by their employer or are supported by  
37 some funding from outside grant agencies like  
38 Packard or the Moore Foundation. And I think your  
39 members would fully support the view that we need  
40 to make this more efficient and -- process because  
41 there's only so many people to go around and we  
42 can't support that many processes. And we also  
43 believe that ultimately we will provide our advice  
44 but the decision will have to be made by the  
45 Government of Canada, not --

46 Q Thank you.

47 MR. MORLEY: -- not by these groups.

1 Q Thank you. In your early testimony before this  
2 commission last year, Mr. Morley, you spoke of the  
3 capacity or lack of capacity by DFO in-house to do  
4 socioeconomic work. Do you recall that testimony?

5 MR. MORLEY: Yes, Mr. Commissioner, I do.

6 Q And you still stand by that testimony?

7 MR. MORLEY: I certainly do. I think that, in fact, in  
8 this -- and I'll broaden it a little bit. Is that  
9 I -- as I mentioned in my background when I first  
10 sat here, is that one of my roles in the  
11 department was the Director of Planning for the  
12 Salmonid Enhancement Program and we had a  
13 multidisciplinary team of biologists, scientists,  
14 economists and sociologists and engineers who were  
15 involved in developing a comprehensive plan for  
16 the Salmonid Enhancement Program and evaluating it  
17 against some of the indicators that are laid out  
18 in the Wild Salmon Policy. And that was done with  
19 a technical team with in-house expertise and was  
20 then exposed to advisory processes and  
21 consultations with stakeholders and First Nations  
22 groups to come up with a final plan. I think it  
23 was an example of a planning process that could  
24 provide a lot of instruction to the Wild Salmon  
25 Policy.

26 In terms of in-house economic expertise, I  
27 think one of the other things is that when you go  
28 outside and hire consultants to do the work, you  
29 may get a piece of work done and it's going to be  
30 expensive, number one, more expensive than it  
31 would be to do internally. Secondly, you don't  
32 develop any of the human resources capability  
33 within your organization to understand those  
34 issues and wend them further into the upper  
35 management when the junior people doing that work  
36 get to more senior positions. So they actually  
37 have a broader understanding of the kinds of  
38 implications of fisheries and habitat management  
39 has in the economy.

40 Q Yes. Thank you. Time is so short. But Mr.  
41 Saunders or Mr. Ryall, do either of you have  
42 comment as to the limited capacity currently of  
43 DFO in terms of socioeconomic in-house capacity?  
44 Do you agree with him generally?

45 MR. SAUNDERS: I'll say that -- and I'm not -- I can't  
46 speak definitively on our capacity but in my time  
47 -- and I understand in the last five years that

1 the capacity within the department in the Policy  
2 Branch, we've significantly increased our  
3 economics capacity. Whether it's enough to  
4 satisfy the needs of a process going forward, that  
5 remains to be seen. I'm not -- I don't believe we  
6 have the social -- the capacity on the social  
7 side.

8 Q Thank you. Do you have anything further to say,  
9 Mr. Ryall?

10 MR. RYALL: No. I would agree with what Mark's  
11 remarked.

12 Q Thank you. I want to briefly - I've got so few  
13 minutes - speak or focus on habitat status reports  
14 for a moment and I believe the evidence is that at  
15 this moment in time, the only habitat status  
16 reports that have been completed relate to three  
17 watersheds: Somass, Bedwell and San Juan; is that  
18 correct?

19 MR. RYALL: I don't know whether that's accurate or  
20 not.

21 Q Well, I take it actually from a document before  
22 you. Do you believe there are any other habitat  
23 status reports that have been completed in terms  
24 of the Province of B.C., Pacific Region?

25 MR. RYALL: I don't work in that area so I can't  
26 answer.

27 Q I see. Mr. Saunders, do you know?

28 MR. SAUNDERS: I'm not -- I don't have a final word on  
29 that.

30 Q All right. I had an exchange with a Mr. Schubert,  
31 a witness in a previous panel because there  
32 certainly is evidence before this tribunal, this  
33 commission, that there's never been a habitat  
34 status report conducted in respect to Cultus Lake.  
35 Mr. Schubert could not answer for us why that was  
36 the situation. Do either of you from DFO have any  
37 contribution to make to explain why Cultus Lake,  
38 of all watersheds, has never had a habitat status  
39 report done?

40 MR. SAUNDERS: I don't know that I have the definitive  
41 answer on that but my understanding is that the  
42 habitat status report was a convention that we  
43 developed as we were exploring how to move forward  
44 in the implementation of WSP, and in particular,  
45 Strategy 2, so many of the ones that have been  
46 conducted have been in support of pilots. So and  
47 we, in working with the province and others, did

1 do some extensive work in the Thompson on a number  
2 of indicators and approaches, so it's largely --  
3 it hasn't been an operational implementation.  
4 It's been more of a pilot implementation in terms  
5 of exploring how well those templates work.

6 Q Thank you. Also, I note that in some of the  
7 documents provided to us, in fact in Exhibit 956,  
8 Mr. Lunn, if you can put that up briefly, page 1,  
9 Record of Meeting, under mid-page Strategy 1.  
10 This, in fact, I think is a presentation of you,  
11 Mr. Saunders, back in just a week or two ago,  
12 March 29th. The first bullet under Strategy 1:

13  
14 Difficult to assess budget for WSP for  
15 upcoming years because of uncertainties  
16 regarding strategic review and departmental  
17 cuts, which are likely to affect core  
18 business  
19

20 I assume you were speaking of upcoming years,  
21 including what's now the current fiscal year April  
22 1, 2011 to 2012; is that correct?

23 MR. SAUNDERS: That's correct.

24 Q I'm a little shocked that, what, two weeks before  
25 approximately -- sorry, three days before the  
26 upcoming fiscal year you were unaware of the  
27 budgetary situation for WSP. Are you now  
28 currently aware of what has been allocated to you  
29 for WSP for what is, in fact, the current year?

30 MR. SAUNDERS: We're awaiting the federal budget that  
31 will come down shortly for final clarification on  
32 what our budgets will be for this current fiscal  
33 year.

34 Q So as you leave this panel, the commission is  
35 unaware as to what will be the fiscal restraints  
36 to DFO in respect to WSP implementation for this  
37 current year, let alone future current years?

38 MR. SAUNDERS: That's correct.

39 Q And once the federal budget has been -- I have  
40 hopefully 30 seconds. Once the federal budget has  
41 been approved, you hopefully will know within a  
42 month or so what would be the restraints to DFO?

43 MR. SAUNDERS: That's correct.

44 Q Thank you. I have one last thing which is Exhibit  
45 962, back to watershed for three seconds. I put  
46 to you, Mr. Ryall, about the three watersheds  
47 where habitat status reports have been completed,

1 if Mr. Lunn would go to page 5 of that document,  
2 headed "Towards Improved Understanding of CUs,  
3 Habitat and Ecosystems Under Strategy 2", can we  
4 rely in this commission on the second bullet:  
5

6 Completed habitat status reports for three  
7 watersheds (Somass, Bedwell, San Juan)  
8

9 Is that accurate? Am I reading it correctly, that  
10 in terms of WSP those are the only three  
11 watersheds that have had habitat status reports?

12 MR. RYALL: I can't answer your question whether that's  
13 the complete list or not.

14 MR. ROSENBLOOM: You can't. I have no further  
15 questions. Thank you.

16 MR. WALLACE: Thank you, Mr. Rosenbloom. And I thank  
17 everybody for their working through these things  
18 as efficiently as possible.

19 Mr. Harvey?

20 MR. HARVEY: So it's Chris Harvey for Area G and UFAWU.  
21

22 CROSS-EXAMINATION BY MR. HARVEY:  
23

24 Q Gentlemen, I'm going to start by asking Mr. Ryall  
25 some questions about Exhibit 755, which are his  
26 written answers to questions previously submitted  
27 in writing.

28 Mr. Ryall, you recognize these as your  
29 written responses to questions submitted in  
30 writing?

31 MR. RYALL: Yes, I do.

32 Q If I could go to question 9, please. You were  
33 asked there:  
34

35 Was the Quesnel Lake component of the 2009  
36 run the predominant contributor to the 2009  
37 decline in Fraser River sockeye?  
38

39 And you say you weren't part of the 2009  
40 management - question best addressed by those  
41 directly involved.

42 MR. WALLACE: Mr. Commissioner, I wonder if Mr. Harvey  
43 could explain briefly how this relates to the  
44 implementation of Strategy 4 on WSP, please?

45 MR. HARVEY: It all relates in that it -- this relates  
46 to the setting of upper benchmarks. Most of my  
47 cross-examination will be directed to upper

1 benchmarks.

2 Q So can I ask some other panel members, just to --  
3 so we can satisfy ourselves that the Quesnel run  
4 was meant to be the dominant and the major run in  
5 2009, perhaps Mr. Morley knows that.

6 MR. MORLEY: Yes, Mr. Commissioner, that's correct.

7 Q Yes. Question 10, roughly -- question 10:

8  
9 What was the spawning escapement target for  
10 Quesnel Lake sockeye in 2001 and 2005?

11  
12 And there's an answer that explains that the  
13 escapement targets are at the level of management  
14 groups, not at individual stocks. And then you  
15 say at the bottom of the page:

16  
17 Applying that Escapement and TAM rule to the  
18 final run size for Summer runs produces an  
19 escapement target of 3,929,000 ( 2001 FRP  
20 Annual Report Table 14) and 4,006,000 (2005  
21 FRP Annual Report Table 2)...

22  
23 In that answer you made reference to -- or you  
24 determined the escapement target by referring to  
25 the final run size; is it correct to infer from  
26 that that the escapement target cannot be  
27 identified until the final run size is known?

28 MR. RYALL: No. In 2001 and 2005 we'd have to go back  
29 to what the escapement plan was in those years and  
30 bring that up to see what the rules were in place  
31 in 2001 and '05 and they would be included in the  
32 Fraser River annual reports that are referenced.

33 Q All right. But they show, do they not, that the  
34 escapement target is variable. It changes in  
35 season according to changes in the run size?

36 MR. RYALL: They do change depending on run sizes, went  
37 through in my previous testimony today, yes.

38 Q Yes. All right. So we can take it from that then  
39 that the escapement targets are not based on the  
40 carrying capacity of the freshwater ecosystem,  
41 that is to say they're not biologically determined  
42 escapement targets?

43 MR. RYALL: I would disagree with that totally.  
44 They're biologically determined and as I talked  
45 about earlier, you can make some choices on what  
46 sort of escapement strategy one wants to take a  
47 look at. You can have a choice around a fixed

1 escapement number. You can have a choice around  
2 ones that are harvest rate based.

3 Q Yes.

4 MR. RYALL: And the whole point of going through the  
5 FRSSI program was to explore those alternatives  
6 and the impacts, and so the scientific reviews of  
7 the outcome was that it would be best to use a  
8 harvest rate approach and that's what's in place  
9 currently.

10 Q Yes. And that results in an escapement target  
11 that varies according to run size?

12 MR. RYALL: To some degree.

13 Q To some degree.

14 MR. RYALL: As I explained earlier, that there's a  
15 point where the -- there is a fixed amount of fish  
16 that are put on the ground over quite a wide range  
17 of run sizes and at an upper point there is a  
18 fixed harvest rate and the amount of fish that are  
19 on the spawning grounds does increase.

20 Q Yes. The green line in the graph you show always  
21 goes up at an angle.

22 MR. RYALL: That's correct.

23 Q Yes. But yet the carrying capacity of the  
24 freshwater system doesn't increase in season, does  
25 it?

26 MR. RYALL: Well, does it change the carrying capacity?  
27 I think --

28 Q No, no. No, no. My question was the carrying  
29 capacity itself can be predetermined and it stays  
30 the same throughout the season.

31 MR. RYALL: Well, you're stating that there's an  
32 absolute understanding of what the carrying  
33 capacity is and I don't think that that is well-  
34 known and so the whole point of a fixed escapement  
35 strategy is the reason that we're not having that  
36 in place and that's why there was a lot of  
37 scientific work undertaken on this particular  
38 aspect and I think what you're looking for is that  
39 we know exactly the carrying capacity, whether it  
40 be the spawning grounds or the lakes that -- where  
41 sockeye rear and that is not really what the  
42 current understanding is.

43 Q Well, whether we know it or not, it wouldn't  
44 change in season, would it?

45 MR. RYALL: Well, I don't know what the focus is on the  
46 in-season, but carrying capacity can change, I  
47 would say, substantially depending on what is



1           available --  
2       Q     Yes.  
3       MR. RYALL:  -- for spawning and what the condition of  
4           the gravel is --  
5       Q     All right.  
6       MR. RYALL:  -- what the status of the lake is as far as  
7           food and groceries in the lake for the fish to  
8           rear.  
9       Q     All right.  
10       MR. RYALL:  So it's not a static answer that you're  
11           asking me.  The habitat changes over time and as  
12           the habitat, for example, in the Fraser watershed  
13           has changed from what it was a decade ago and 50  
14           years ago, and so there's not a one particular  
15           fixed answer to this.  That's one of our  
16           challenges.  
17       Q     You wouldn't expect it to change between June and  
18           October, would you?  
19       MR. RYALL:  I don't know.  It could change.  I've seen  
20           it change.  
21       Q     Yes.  The -- is escapement target that is used in  
22           this question and answer, is that the same term as  
23           upper benchmark in the WSP?  
24       MR. RYALL:  Which part are you referring to?  
25       Q     Well, the -- this is question 10.  I asked you  
26           about the spawning escapement target and you gave  
27           me -- then you explained how they are set and you  
28           explained what they were.  Is that the -- what is  
29           the relationship between that and upper benchmark?  
30       MR. RYALL:  Well, in these particular years that we're  
31           looking at in question 10, it would be best to go  
32           back to the actual escapement strategy.  This is  
33           trying to address the question that you asked  
34           about the escapement targets specifically was,  
35           2001 and 2005 and the way we -- I provided the  
36           answer back was applying that escapement strategy  
37           to what the final run size was.  
38       Q     All right.  
39       MR. RYALL:  And I guess just to be, you know, to expand  
40           on my answer about things changing in season, as  
41           far as capacity, I think that's probably more the  
42           exception, given, you know, you talked about from  
43           June, July.  But the only reason I said it can  
44           change, I've seen where there's flood events that  
45           have made some changes.  
46       Q     Yes.  
47       MR. RYALL:  They're probably not the typical pattern,

1 but it -- to me it's -- things are not static.  
2 It's a biological system and they do change.

3 Q All right. Question 11 is:

4  
5 What was the actual spawning escapement for  
6 Quesnel Lake sockeye in 2001 and 2005?

7  
8 And you give it there, 3.5 million-odd, 1.4, and  
9 then question 14 is the same question for 2002 and  
10 2006. The actual escapement 2002 three million  
11 and sixty-two. These are the results of the  
12 application of the management system in place at  
13 that time; is that correct?

14 MR. RYALL: It would be the outcome of the management  
15 actions and the application of the escapement  
16 strategy. It also would be the outcome of if  
17 there were fish that died en route in any one of  
18 those particular years, as well.

19 Q Yes.

20 MR. RYALL: That has also been prevalent. But not  
21 really with the Quesnel.

22 Q And finally before we take the lunch break,  
23 question 26, the question is:

24  
25 Dr. Riddell said on December 1, 2010  
26 (transcript p. 78, line 21) that he expected  
27 the upper escapement benchmarks to change as  
28 a result of the publication of Exhibit 184

29  
30 And then the question is:

31  
32 Have they changed, and if so, how?

33  
34 And you give a long answer but what it comes to is  
35 this, isn't it, that the benchmarks are under  
36 constant review but they have not changed as a  
37 result of Exhibit 184. Is that a fair summary?

38 MR. RYALL: That is -- they have not changed, that's --  
39 I would agree.

40 MR. HARVEY: Yes. All right. I think it's exactly  
41 12:30, so maybe I'll continue after lunch.

42 THE REGISTRAR: Hearing will now adjourn till 2:00 p.m.

43  
44 (PROCEEDINGS ADJOURNED FOR NOON RECESS)  
45 (PROCEEDINGS RECONVENED)

46  
47 THE REGISTRAR: Order. The hearing is now resumed.

1 MR. HARVEY: Yes, thank you, Mr. Commissioner. For the  
2 record, Chris Harvey, continuing.  
3

4 CROSS-EXAMINATION BY MR. HARVEY, continuing:  
5

6 Q Mr. Ryall, I had referred to Dr. Riddell's  
7 evidence in that question that we discussed before  
8 lunch, because he was involved in the development  
9 of the WSP and presumably would know what its  
10 intent was. I'm wondering, did you happen to  
11 discuss the answer to your question with him  
12 before you gave the written answers, or not?

13 MR. RYALL: No, I did not. I didn't discuss my written  
14 answers to the questions that were posed to me  
15 with anyone, with the exception of some that were  
16 calculations that were done by biological staff --

17 Q Yes, I see.

18 MR. RYALL: -- for the amount of fish that were on the  
19 spawning grounds, so that was the input. But  
20 other than that, I didn't discuss with anyone.

21 Q I see. Okay, thank you. The document he was  
22 referring to in his answer, and I referred to in  
23 that question, was Exhibit 184, and I've asked Mr.  
24 Lunn to pull that up on the screen. This is the  
25 document that, in his view, would lead to changes  
26 in the benchmarks -- in the upper benchmark. And  
27 it contains evidence which, I think, you said, or  
28 inferred, didn't exist, relating to carrying  
29 capacity.

30 At page 33, for example, if we could bring  
31 that up, Mr. Lunn, there's a section in the  
32 middle, shaded green, and this is a table, as the  
33 title says, let's see:

34  
35 ...parameter priors used to make benchmarks  
36 for Ricker and Kalman Filtered Ricker models,  
37

38 et cetera:  
39

40 Summary spawning capacity based on lake  
41 rearing photosynthetic rate estimates...  
42

43 And the work, there, identifies the different  
44 carrying capacities used based on SR models. The  
45 Quesnel, you'll see, they use the figure -- the  
46 authors use the figure one million and the Shuswap  
47 about 1.5 million.

1           The Quesnel figure, one million, compares  
2           with what you had in your answers as to the  
3           escapements in 2001, and 2002 of over three  
4           million, I think. And so I wanted to point this  
5           out to you and ask whether you don't -- you  
6           appreciate that this material relating to carrying  
7           capacity and its reference to benchmarks exists in  
8           this Exhibit 184?

9           MR. RYALL: Yes, I recognize there's estimates of  
10           carrying capacity. My answer was that there was a  
11           lot of uncertainty in those carrying capacity  
12           estimates.

13          Q     All right.

14          MR. RYALL: And by (sic) meaning by that, is that we  
15           could look elsewhere and come up with different  
16           estimates as well, and so that that's the issue,  
17           really, is that there's a lot of uncertainty in  
18           those estimates.

19          Q     Well, these are the best estimates that have been  
20           compiled by DFO to date, are they not?

21          MR. RYALL: I don't know if these are the best  
22           estimates or not. It would be a good question to  
23           pose to the authors of this paper about --

24          Q     All right. Well, we --

25          MR. RYALL: All I'm saying is there's other estimates  
26           available and these folks would be the best ones  
27           to put that question to --

28          Q     All right.

29          MR. RYALL: -- as far as carrying capacity.

30          Q     Well, we've had evidence from Jeremy Hume, who's  
31           one of the authors. He described and discussed a  
32           paper that he had published with Shortreed, I  
33           think, and others, in 1996, and it appears that  
34           the carrying capacity data has been studied since  
35           and not changed. So there we have it.

36           But I wanted to refer you to the benchmarks  
37           that are developed here. Page 135 and 136, for  
38           the Quesnel, if we could go to page 135. 135, at  
39           the top of the page, just identifies this as being  
40           the Quesnel aggregates.

41           And then the next page, Mr. Lunn, continues  
42           and the bottom graph I'd like to look at. You see  
43           the bottom graph identifies lower and upper  
44           benchmarks, one in red, one in green. This is for  
45           the Quesnel system and the upper benchmark is  
46           based on 80 percent SMSY, which is 80 percent of  
47           maximum sustainable yield, I think. Is that as

1           you understand it, Mr. Ryall?

2 MR. RYALL: I would assume that's what this is.

3 Q Yes. And 80 percent of SMSY has been calculated  
4 at 717,000 spawners. Now, if someone were to ask  
5 -- if someone were to do a socioeconomic analysis  
6 of the foregone harvest in 2001, I think it was,  
7 the year that there was three and half million  
8 spawners, you'd have to have an upper benchmark to  
9 make that calculation, would you not, because  
10 you'd want to measure the -- determine the number  
11 of spawners between the upper benchmark, 717,000,  
12 and the actual number of spawners, three and half  
13 million. You'd need that information to get going  
14 on a socioeconomic analysis of the foregone  
15 harvest, would you not?

16 MR. RYALL: You would need more than just those two  
17 numbers to (indiscernible - overlapping  
18 speakers) --

19 Q All right. I accept that.

20 MR. RYALL: And I think if we looked further into this  
21 paper you'd find that there's a range of  
22 benchmarks of what might be the upper and what  
23 might be the lower, as well, in Quesnel or the  
24 Quesnel system. So I don't think it's a matter of  
25 just saying, "Here is one upper benchmark," I  
26 think what's been proposed, and one of our  
27 challenges has been -- is determining those, and  
28 that's why there's an ongoing scientific study on  
29 this.

30 Q All right. Well, but I'm just dealing with the  
31 concepts, not necessarily the numbers.

32 MR. RYALL: Mm-hmm.

33 Q The concept to determine -- well, let's put it  
34 this way: if the purpose of an upper benchmark is  
35 to determine -- to make the determination that is  
36 essential for a socioeconomic analysis, you'd  
37 expect to find an upper benchmark of this sort,  
38 would you not? In other words, a fixed upper  
39 benchmark that did not change with escapement --  
40 run size?

41 MR. RYALL: That's one way of casting it, but there are  
42 other ways to cast it as well, and one could look  
43 at it as far as the harvest rate.

44 Q All right.

45 MR. RYALL: So I don't think it's just a matter of  
46 picking one number and saying, "Let's take 717,000  
47 as what's on this page as an upper benchmark," and

1 saying, "Because we put more fish on the spawning  
2 grounds, subtract the difference and say that's a  
3 foregone economic value."  
4 Q All right.  
5 MR. RYALL: I would say that there's other values that  
6 need to be incorporated, and as I've mentioned a  
7 few times I think there's quite a bit of  
8 uncertainty in picking fixed numbers around the  
9 capacity within salmon and, hence, the work around  
10 rather than casting these as fixed numbers it's  
11 been cast as harvest rates.  
12 Q But, Mr. Ryall, sometimes we have to do the best  
13 we can, and this is the work of some very talented  
14 people with a lot of expertise doing the best they  
15 could to determine carrying capacity, is it not?  
16 MR. RYALL: I agree with you that these are very good  
17 people and the best they can with the information  
18 they have at hand. I'm just saying that there's  
19 other pieces of information and I'm not sure we've  
20 explored them all within this paper, either.  
21 Q Just as a matter of interest, while we're on the  
22 paper, if we could turn to page 142. Well, 141  
23 identifies what this is. 141 is the Shuswap, you  
24 see that at the top. 142 is the equivalent graph  
25 at the bottom for the Shuswap. The 80 percent MSY  
26 upper benchmark line is at 1.343 million spawners  
27 Do you see that?  
28 MR. RYALL: I do see that.  
29 Q And then 2010, the spawner level in that system  
30 was around about 8.6 million, correct?  
31 MR. RYALL: In which year?  
32 Q 2010.  
33 MR. RYALL: Yes. Well, you know, before I say, "Yes,"  
34 it was a large number, and if that's what the  
35 record is, I'm willing to accept that, but --  
36 Q Yes.  
37 MR. RYALL: -- I don't recall it was that large, but  
38 regardless...  
39 Q Mr. Morley, do you know whether that's the number  
40 that's come out so far?  
41 MR. MORLEY: I don't know the precise number, but  
42 that's the right order and magnitude, for sure.  
43 Q Yes. So in other words, if it was 8.6, my  
44 calculation is that's 640 percent above the upper  
45 benchmark recommended here. Now, have any of you  
46 had the opportunity - now we're in early June -  
47 have any of you had the opportunity to see the

1 large black mass of fry that emerged and came  
2 along the beaches in April and May of this year?  
3 The progeny of that large escapement?  
4 MR. RYALL: I have not.  
5 Q Nobody else? So perhaps the only one who's seen  
6 that is our cameraman, who I understand has it on  
7 film. I intend to ask Mr. Wallace if we can  
8 somehow get that before the Commission. But at  
9 any rate, you would expect a large black mass of  
10 fry emerging last month and the month before,  
11 would you not?  
12 MR. RYALL: Well, you know, it's an interesting  
13 question you pose, and this will go back to why  
14 there was that many fish on the spawning ground.  
15 It was because we were trying to protect some  
16 other stocks at the same time.  
17 Q Oh yes, they're trade-offs, and I'll be getting to  
18 trade-offs. But let's think for a moment. What  
19 happens to these fry in June, right about now,  
20 they're going out into the deep water, they begin  
21 their summer foraging on the food web. In the  
22 fall they can be measured by people like Jeremy  
23 Hume. They'll have to survive the winter, and  
24 there will be obviously a large die-off. And they  
25 die off because of some shortage of food,  
26 starvation, to put it bluntly. The survivors will  
27 get down to the open sea in about a year's time,  
28 in a half-starved state, one would assume. And  
29 we'll see the results of that in 2014.  
30 Now, I won't ask you to speculate on the  
31 results, but I've at least got the timeframe  
32 right, have I not?  
33 MR. RYALL: For when the majority of those fish will  
34 return that --  
35 Q Yes.  
36 MR. RYALL: -- were spawned in 2010, yes.  
37 Q Yes. Mr. Morley, I'd like to ask you this: Would  
38 you say that there's something seriously wrong  
39 with a system that results in 8.6 million spawners  
40 when the maximum carrying capacity is around about  
41 1.8?  
42 MR. MORLEY: Mr. Commissioner, I would agree that  
43 that's a tremendous waste of economic opportunity  
44 for many people, yes.  
45 Q Yes. And are you aware of any discussion in the  
46 stakeholder discussions, relating to Strategy 4,  
47 where there has been a methodology put for

1 identifying that value?  
2 MR. MORLEY: In my conversations with respect to the  
3 next stage in the FRSSI process, I have requested  
4 that those kinds of evaluations form part of our  
5 deliberations. I've also requested that the  
6 exploitation rate, and we testified about this  
7 previously, but essentially the upper benchmark,  
8 as we have heard from Mr. Ryall, is really a 60  
9 percent maximum exploitation rate on any  
10 population, and that we certainly, as a group of  
11 stakeholders, have asked for that approach to be  
12 re-looked at and look at other alternatives which  
13 would include some kind of maximum fixed number of  
14 spawners in any one system to look at -- again,  
15 analyze what the impacts of that strategy might be  
16 on both the ongoing population levels as well as  
17 the potential socio and economic benefits  
18 Q Yes, thank you. I'd like to ask whether any  
19 members of the panel are familiar with the harvest  
20 and escapement strategy adopted in the U.S., first  
21 of all, in the Columbia River. Has anyone got a  
22 familiarity with that process?  
23 MR. RYALL: Well, which species are you talking about?  
24 There's not too many chinook in the Columbia.  
25 Q Sockeye.  
26 MR. RYALL: Okay, excuse me, there's not too many  
27 sockeye - I think I said chinook - there's not too  
28 many sockeye in the Columbia River. There's a few  
29 populations, most --  
30 Q Where --  
31 MR. RYALL: Okanogan and Snake River, but...  
32 Q But those populations have returned in greater  
33 numbers in 2008 and record numbers in 2009 and  
34 2010, have they not?  
35 MR. RYALL: To the Okanogan?  
36 Q Well, to the Okanogan, but I think to the Columbia  
37 system, generally.  
38 MR. RYALL: There was a record return in 2010, is my  
39 understanding, yes.  
40 Q But also 2008, 2009, while the Fraser was having  
41 record low returns, correct?  
42 MR. RYALL: That could well be, as far as some of the  
43 stocks, yes.  
44 Q Yes. Mr. Morley, are you aware of that?  
45 MR. MORLEY: Yes, that's correct, they had very strong  
46 returns.  
47 Q All right. Now, we have had some evidence in this



1 Commission before about the U.S. management system  
2 style in the Bristol Bay area. In one of my tabs,  
3 Tab 7, I had Technical Report Number 7. That's, I  
4 think, Mr. Lunn, you have an exhibit number for  
5 that. I'd like to turn to that. Exhibit 718.  
6 I'd like to start with page 125.

7 MR. TIMBERG: Mr. Commissioner, I haven't risen before,  
8 but my friend had not provided any notice of any  
9 documents that he was going to be putting towards  
10 this panel, and he keeps putting new documents  
11 that I did not provide to our witnesses, because  
12 there was no notice provided, so we're going some  
13 ways along here on this line of questioning.

14 MR. HARVEY: Sorry, that was Tab, I said 7; I meant Tab  
15 9 in the letter dated May 20th, 2011, to the  
16 Commission, giving notice pursuant to *Rule 60 and*  
17 *61, et cetera, et cetera*, for the evidentiary  
18 hearings.

19 MR. TIMBERG: I've been proven wrong. I apologize.

20 MR. HARVEY: If we could look, please, at Tab -- page  
21 126. We've got the Bristol Bay system.

22 Q Just looking, briefly, at page 126, the next page  
23 and, in fact, I'll skip over that, in the interest  
24 of time, and go straight to 141. These show  
25 examples, here. The figure at the bottom  
26 describes what this is:

27  
28 Catch and escapement of westside sockeye  
29 stocks in Bristol Bay... Light bars are  
30 catch, dark bars escapement, and black  
31 horizontal lines represent the upper and  
32 lower bounds of the current escapement goal  
33 range...  
34

35 Now, if you look at that, you'll see they do a  
36 pretty good job of staying within their upper and  
37 lower boundary markers for those stocks. And  
38 perhaps if we just look at the next page, again,  
39 looks like they do a pretty job there of keeping  
40 within their escapement ranges.

41 And what these are, and how they're based, is  
42 shown at page 139, if we could go to page 139,  
43 that's back a couple pages, towards -- right at  
44 the bottom of the page, just briefly. The last  
45 paragraph, "ADF&G," that's the Alaska Department  
46 of Fish and Game:  
47

1 research biologists develop biological  
2 escapement goals for individual river systems  
3 based on sustained yield and/or maximum  
4 sustained yield (MSY) principles using  
5 relationships between escapement levels and  
6 subsequent returns (termed stock recruit  
7 analyses). In 2000, the BOF -

8  
9 et cetera:

10  
11 - adopted a "Policy for the Management of  
12 Sustainable Salmon Fisheries"...*Policy for*  
13 *the management of sustainable salmon*  
14 *fisheries*) that specifies guiding principles  
15 and protocols for the management of salmon  
16 fisheries to achieve maximum or optimum  
17 salmon production.  
18

19 So there it is, Mr. Ryall. That's their  
20 equivalent, it seems, of the Wild Salmon Policy,  
21 and they -- I'd like to ask you: Do you  
22 understand biological escapement goals to mean an  
23 escapement goal based on the ecosystem's carrying  
24 capacity? Mr. Ryall? Or do you know that.

25 MR. RYALL: Are you referring to this document here?  
26 I've not read this document, and I'm not familiar  
27 with how they particularly have chosen to  
28 development escapement targets for Bristol Bay  
29 Lakes, but I would say that you're comparing  
30 things that are not exactly comparable, they're  
31 quite different systems.

32 Q Yes. All right. Well, if you're not familiar, I  
33 won't ask you any more about it, apart from this.  
34 I want to look at page 171, which is the comment  
35 -- the conclusion by the authors of this technical  
36 paper. 171. I'm sorry. Under escapement goals,  
37 yes. The first paragraph reads:

38  
39 Currently, management goals for each -

40  
41 -- and now they're commenting about the Canadian  
42 system --

43  
44 - run-timing group of Fraser sockeye are  
45 defined through the FRSSI process which has  
46 employed shared decision making techniques  
47 and a complex set of objectives and

1 evaluation criteria. The key missing pieces  
2 from this process are (1) a clear definition  
3 of the escapement goals for each stock by  
4 cycle year, and (2) a method for integrating  
5 stock-specific goals into a management rule  
6 for each run-timing group. As demonstrated in  
7 the Bristol Bay fisheries, clearly defined  
8 escapement goals are critical for providing  
9 managers with the targets needed to make  
10 fisheries management decisions and assess  
11 stock status.  
12

13 I want to ask the four members of the panel  
14 whether they agree with that statement. Mr.  
15 Morley, do you agree with that comment?

16 MR. MORLEY: I certainly agree that in any fishery  
17 management system you need to have clearly defined  
18 escapement goals as an underpinning of your  
19 harvest management strategy.

20 Q Yes. Mr. Young, would you agree with that?

21 MR. YOUNG: Yeah, I'd agree as well, and add that  
22 stock, in this case, applied under the Wild Salmon  
23 Policy would be a conservation unit, and that this  
24 would include meeting -- the priority of meeting  
25 lower benchmarks for all CUs.

26 Q Yes. And you would agree, probably, it should be  
27 ecosystem-based, both upper and lower benchmarks?

28 MR. YOUNG: Yes. Although that's quite a general  
29 question, and we could probably have a fair  
30 discussion about what "ecosystem-based" means.

31 Q Okay. Now, I want to turn to the Wild Salmon  
32 Policy, and I'll tell you why: because I read the  
33 Wild Salmon Policy as requiring DFO managers to  
34 set upper benchmarks on a carrying capacity basis;  
35 in other words, a biological basis. And I'm going  
36 to suggest, Mr. Ryall, that it's the intent of the  
37 Wild Salmon Policy to use the upper benchmarks for  
38 the purpose of making transparent the amount of  
39 fish that could have been harvested but have been  
40 traded off for the sake of some other value.

41 And I should say I noticed in the document  
42 that Mr. Leadem put up referred to the April 2011  
43 update that referred to Strategy 4 and contained  
44 these words in one of the slides, and I think this  
45 may have been one of your slides, Mr. Ryall:

46  
47 Strategy 4 is largely contingent on

1 Strategies 1 to 3.  
2

3 Is that a fair statement, Mr. Ryall?

4 MR. RYALL: It's important to have that information  
5 from Strategies 1 through 3, I agree.

6 Q Now, I want to look at the Wild Salmon Policy  
7 Strategy 1, at page 18 of Exhibit 8, I believe it  
8 is. Now, I should apologize to everyone, it's  
9 late in the week, it's a Friday, but I'm going to  
10 -- I want to put it to the panel what the bottom,  
11 left-hand paragraph is intended to mean, because  
12 my point is that I think, Mr. Ryall, you've been  
13 misinterpreting the Wild Salmon Policy with  
14 respect to upper benchmarks.

15 The wording is:

16  
17 The higher benchmark between Green and Amber  
18 will be established to identify -

19  
20 -- so pausing there, it's being established for a  
21 purpose, is to identify --

22  
23 - whether harvests are greater or less than  
24 the level expected to provide, on an average  
25 annual basis, the maximum annual catch for a  
26 CU, given existing environmental conditions.  
27

28 So there's a reference to environmental  
29 conditions. There's a reference to maximum annual  
30 catch, which, presumably, is the same as maximum  
31 sustainable yield, and it states that the purpose  
32 of the higher benchmark is to identify whether the  
33 harvests are greater or less than that MSY  
34 benchmark.

35 I'm interpreting that correctly, am I not,  
36 Mr. Ryall?

37 MR. RYALL: Well, I think you started your question  
38 with stating that I was misinterpreting, so maybe  
39 I could address that part?

40 Q Well, let's --

41 MR. RYALL: So I would go onto the other side of the  
42 page on page 18, where it provides some examples.

43 Q All right. Let's do that. It says --

44 MR. RYALL: And, for example, one of them is:

45  
46 A proportion of the number of spawners (S)  
47 estimated necessary to provide maximum

1                   sustainable yield (MSY) on an average annual  
2                   basis...

3  
4                   And the next bullet says:

5  
6                   An exploitation rate --

7  
8                   Q    Wait a minute, shouldn't we stop there for a  
9                   moment to determine what that means?

10                  MR. RYALL:  Sure.

11                  Q    And as an example, SMSY, but earlier it said a  
12                   "portion" --

13  
14                   A proportion of the number of spawners (S)  
15                   estimated necessary to provide maximum  
16                   sustainable yield...

17  
18                   So is it 100 percent or is it slightly less than  
19                   100 percent, such as the 80 percent that Grant and  
20                   others came up with?

21                  MR. RYALL:  Yeah, it could be a proportion --

22                  Q    Okay.

23                  MR. RYALL:  -- of what that's referring to, I think.

24                  Q    Okay.  All right.  You wanted to continue?

25                  MR. RYALL:  Sure.  Let's go to the next one.

26  
27                   An exploitation rate for the CU that would  
28                   limit harvest based on a rate of fishing  
29                   mortality rather than the number of fish  
30                   killed.

31  
32                  Q    Yes, so we want to look at the whole of the  
33                   mortality, not just the fish that are killed by  
34                   harvest?

35                  MR. RYALL:  Right.

36                  Q    All right.

37                  MR. RYALL:  So that example would be an exploitation  
38                   rate type strategy, which is what we have in  
39                   FRSSI.

40                  Q    Yeah, all right.

41                  MR. RYALL:  So my --

42                  Q    And that's one component.  Now, I think you want  
43                   to deal with the next one, too, don't you?

44                  MR. RYALL:  Sure.  We can deal with all of them.  They  
45                   are put here as examples.

46                  Q    Okay.

1 MR. RYALL: And the reason that these examples were put  
2 in this report was not to be prescriptive about  
3 picking one or the other --

4 Q No, but we --

5 MR. RYALL: -- it was to be prescriptive about, "Here  
6 are some examples," --

7 Q All right. But --

8 MR. RYALL: -- and the --

9 Q Sorry.

10 MR. RYALL: Okay.

11 Q Read the next one. It says --

12 MR. RYALL: Okay, but before we read the next one, I  
13 was going to provide some explanation.

14 Q All right. Sorry.

15 MR. RYALL: And so there's a number of examples here  
16 that one could choose, and you need to match those  
17 examples up with a system that you're trying to  
18 manage.

19 Q All right.

20 MR. RYALL: And my earlier comment about Bristol Bay  
21 and the Fraser are quite different systems to  
22 manage. They've chosen Alaska, and I'm sure they  
23 have very good reasons for doing that, to fix, in  
24 a proportion, similar to the first bullet.  
25 There's been quite a body of work around the  
26 exploitation rate that's been applied within the  
27 Fraser River and there's been peer reviews of that  
28 work that were taken by some of the authors of the  
29 paper that you were directing me towards earlier,  
30 that attended workshops and attended documents  
31 that were -- been scientifically peer reviewed.

32 So I don't think it's, you know, necessarily  
33 (sic) to cast it as my misinterpretation; I think  
34 these are just some examples that the Department  
35 put in this document, the Wild Salmon Policy, that  
36 one could use to look at how you're going to  
37 choose an exploitation rate strategy.

38 I view these, as one gains more knowledge,  
39 that things could change. And you were asking  
40 about whether there'd be changes to upper  
41 benchmarks and lower benchmarks. The ones that  
42 are currently used in the lower benchmarks were  
43 labelled "interim benchmarks" and I'm hopeful that  
44 the paper that Ms. Grant is putting forward is  
45 going to further educate us as far as benchmarks,  
46 and at this point in time not land it in a spot.

1 I'm also hopeful that as far as the upper  
2 benchmark goes, that we can explore along the  
3 lines that Mr. Morley has talked about, whether it  
4 should be some different number, and to me some  
5 different number does not necessarily mean higher  
6 or lower; it needs to be exploring what the  
7 implications of that are.

8 Q The third bullet point refers to habitat. It  
9 says:

10 The number of smolts (or spawners) estimated  
11 to correspond with habitat capacity,  
12  
13

14 That means carrying capacity, doesn't it?

15 MR. RYALL: Yeah, it could be the carrying capacity --

16 Q All right.

17 MR. RYALL: -- within the lake, and this --

18 Q Well, it could be --

19 MR. RYALL: -- particular system where it could be the  
20 carrying capacity within the river where the fish  
21 spawn. It could be either of those things. And  
22 so that's another example that could be used, I  
23 agree.

24 Q But do you not agree with me that the intent of  
25 the upper benchmark is to set an ecosystem-based  
26 benchmark?

27 MR. RYALL: I'm not sure what you're capsulating in  
28 ecosystem benchmark" and so like my colleague,  
29 Jeffery Young, I don't know what you're referring  
30 to when you cast it that way. I don't know if it  
31 means anything or whether you're -- what label  
32 you're putting on it.

33 Q Well, at any rate, Grant and Holt and Hume and  
34 others apparently understand that; would you agree  
35 with that?

36 MR. RYALL: I don't know.

37 Q All right. One final question before I sit down,  
38 on another subject -- well, let me make this  
39 comment: You've got to, if you're going into a  
40 consultation process, you have to first set the  
41 benchmarks on the technical basis. You have to  
42 make use of the benchmarks for the purpose of  
43 doing a socioeconomic analysis valuing foregone  
44 harvest and other thing, before you get into  
45 Strategy 4, consultation, do you not? Or else  
46 you're in the situation that Mr. Morley has  
47 described where a whole lot of uninformed people

1           are basically having a tea party; is that not a  
2           fair comment?

3       MR. RYALL: The Appendix 2 that we talked about earlier  
4           today, lays out a five step planning process that  
5           I think you've heard from the panel here, we think  
6           that is a good way to go within that five-step  
7           process. It talks about, in step 3, identifying  
8           those indicators. So we don't want to waste time,  
9           and one of the issues that Mr. Morley raised is  
10          maybe steps 1 through 3 should be done through  
11          technical working groups that are then brought to  
12          a panel that would then focus on steps 4 and 5.

13       Q       Yes. And the technical analysis would be the sort  
14           of thing that Grant, Holt and Hume and others have  
15           done, correct?

16       MR. RYALL: When you say that, you're referring just to  
17           the paper?

18       Q       Yes.

19       MR. RYALL: What I would take from your question is  
20           that we'd be looking at those type of people that  
21           do that biological assessment, but that's only a  
22           piece of it --

23       Q       All right.

24       MR. RYALL: -- and we need that biological assessment  
25           to be undertaken, I would agree.

26       Q       All right. So I'm not going to ask anything more  
27           about the Wild Salmon Policy, because I've run out  
28           of time, but I have one question for Mr. Morley,  
29           and that relates to the marine stewardship  
30           certification process, because I think, Mr.  
31           Morley, you've definitely got some expertise and  
32           experience in that process.

33                   We had a panel a few weeks ago, DFO  
34           conservation and protection section, which --  
35           where we had a description of large numbers of  
36           sockeye in freezers and an account of how  
37           difficult it is to trace those from harvest to  
38           ultimate consumer. In the certification process,  
39           is one of the essential elements that there be  
40           traceability of a commercial product back to a  
41           legal harvest?

42       MR. MORLEY: Mr. Commissioner, there's two elements in  
43           terms of what would impact on this. One, is that  
44           for this certification that the fishery is  
45           properly managed, there needs to be an accurate  
46           reporting of all catches so that the management  
47           agency is aware of the level of harvest and



1 ensures that it stays within their management  
2 regime. Beyond that, for when -- once a fishery  
3 is certified, then in order for anyone to market a  
4 product that comes from a certified fishery, any  
5 company or individual that wants to sell a product  
6 and claim that it's certified, needs to have a  
7 chain of custody certification, also, where their  
8 systems for traceability are reviewed and ensure  
9 that they know the source of the product and that  
10 through this chain of custody you can trace  
11 whatever product is going through their hands as  
12 coming from a fishery that was certified. So it  
13 has to be traced back to that fishery.

14 And within British Columbia right now in  
15 sockeye fisheries, that would be -- all the  
16 fisheries that have that certification would be  
17 the gillnet, seine and troll commercial sockeye  
18 fisheries, as well as the in-river economic  
19 opportunity fisheries that are, again, set forward  
20 as a legal commercial fishery. So as long as you  
21 have a traceability system that ensures you can  
22 demonstrate to a certifier that you can trace  
23 those fish back to those fisheries, then you're  
24 authorized to attach an MSC label to that product.

25 Q Yes. And if you don't have that, it might risk  
26 your certification; is that --

27 MR. MORLEY: The certification, itself, again, that  
28 would apply to the individual product (sic) who  
29 wants to sell the product. The certification,  
30 itself, is more dependent on the managing agency  
31 being able to ensure that they have an accurate  
32 reporting of all the catches.

33 Q The managing agency is DFO, of course?

34 MR. MORLEY: That's correct, yes.

35 MR. HARVEY: Thank you. Those are my questions.

36 MR. WALLACE: Thank you. Mr. Commissioner, Mr.  
37 Eidsvik.

38 MR. EIDSVIK: Good afternoon, Mr. Commissioner, Philip  
39 Eidsvik on behalf of Area E Gillnetters and the  
40 B.C. Fisheries Coalition.

41  
42 CROSS-EXAMINATION BY MR. EIDSVIK:

43  
44 Q Mr. Morley, perhaps I could start with yourself.  
45 We often talk about harvesting fish in a  
46 commercial fishery, had we often forget that the  
47 purpose of the harvest is -- is not Fraser sockeye

1 a great natural or local food source, and really  
2 what we're doing is harvesting food?

3 MR. MORLEY: I always have to remind people that we  
4 are, in fact, in the food business, and the only  
5 reason that people are paying us to do the things  
6 we're doing is because, ultimately, it's going to  
7 go on someone's plate to eat.

8 Q And, indeed, it's a great, healthy, wonderful  
9 thing to eat. I know you eat it, yourself.

10 MR. MORLEY: I eat a lot of sockeye, myself, and it's  
11 certainly one of the most nutritious sources of  
12 protein there is.

13 Q Thank you. Prior to the Wild Salmon Policy and  
14 multi-stakeholder-facilitated processes, I mean,  
15 we've long had a problem with certain weak stocks  
16 on the Fraser River, and I think of the Horsefly  
17 stock. That was rebuilt pretty successfully from  
18 very, very low numbers to millions of fish over a  
19 period of fish without the Wild Salmon Policy; was  
20 it not?

21 MR. MORLEY: That's correct.

22 Q Now, if you could pick a couple of the good people  
23 out of DFO, and I'm comparing what we've done on  
24 Cultus to what we potentially could do, you know  
25 lots of good people in DFO, if you could have gone  
26 in there tomorrow, pick a couple of good people,  
27 give them a million dollars a year, would we still  
28 be dealing with the difficulties we've had in  
29 moving Cultus forward and getting that stock  
30 rebuilt?

31 MR. MORLEY: Mr. Commissioner, in my opinion, there are  
32 three significant issues facing Cultus Lake right  
33 now that are very difficult to deal with, one  
34 being the freshwater survival things; we tried to  
35 deal with things like the milfoil removal and  
36 predator control and other issues in the lake.  
37 The second whole area being early upstream  
38 migration of those fish and getting *Parvicapsula*  
39 and dying before they spawn. And the third one  
40 being poor ocean survival. I'm not sure that we  
41 could -- I could take a couple people and spend a  
42 million dollars and do anything about the first  
43 two.

44 The freshwater survival, I think we probably  
45 could do more than we have done, but I still think  
46 we'd be facing serious problems because of the  
47 other two issues that we don't seem to have a

1 solution for, now.

2 Q We would be in better shape, today, if we had  
3 dealt with the freshwater issues fairly  
4 aggressively, rather than spending two or three  
5 years talking?

6 MR. MORLEY: I think we could have done more and I  
7 think that people -- I think there's many people,  
8 and I think you heard from some of the people  
9 directly involved in the team, like Dr. Bradford  
10 and Mr. Schubert, that they felt we could have  
11 done more, and I would agree with that, for sure.

12 Q Certainly, still some good people in DFO that  
13 could deal with this problem?

14 MR. MORLEY: There's many good people in DFO, yes.

15 Q Now, if we deal with Cultus -- or, sorry, the  
16 other red stocks in the future that are red stocks  
17 in the CU, the same way we dealt with Cultus, and  
18 some of the problems that I've talked about, what  
19 does this mean to a coastal commercial fishery?

20 MR. MORLEY: Well, I think our approach to Cultus keeps  
21 changing, and I think, fortunately, it's starting  
22 to get a little bit more enlightened in some  
23 respects, that we're starting to see that, in  
24 fact, we can have sustainable harvests in Cultus  
25 and still see some rebuilding, even at 35 - 40  
26 percent exploitation rates. But if we sort of  
27 take the same approach where we identify a problem  
28 in one of these seven systems that may be in the  
29 red list in the Fraser, which sort of span all of  
30 the run-timing groups and all of the geography of  
31 the Fraser, if we take the same kind of approach  
32 and say that we have to limit exploitation to 10  
33 percent on those, that I think it means,  
34 essentially, and for any period of time, it means  
35 the end of fisheries in all approach areas, all  
36 the way up the main stem of the Fraser, and that  
37 the only real substantial fisheries that could be  
38 undertaken would be beyond the spawning grounds,  
39 themselves, in individual systems.

40 Q I'll get to those in a minute. And the point I  
41 think you raised was interesting. Always on  
42 fisheries stocks there's some problems that are in  
43 human control, some problems that are outside  
44 human control, and my point is the human control  
45 problems are the ones we have to do really well,  
46 because we can't control the other problems. Have  
47 I got that correct?

1 MR. MORLEY: Well, I think by definition, if things are  
2 in human control we can do something about them,  
3 and if they're not, we can't. So we certainly can  
4 try to understand some of the other issues better  
5 and try to learn if there might be something we  
6 could do -- something more we can do about it, but  
7 clearly the ones that we know we can do something  
8 about we should do as good a job as we can.

9 Q And Mr. Saunders, I want to bring up one of those  
10 issues that's of concern to us, and it's the issue  
11 of habitat. And you are familiar, probably, with  
12 the Adams Lake -- proposed Adams Lake development?  
13 It's the 150-boat marina and the 200 condo units  
14 at the mouth of the Adams Lake -- or river, I  
15 mean, mouth of the Adams River?

16 MR. YOUNG: Sorry, are you asking me? I'm Mr. Young.

17 Q I'm sorry, Mr. Young. Jeffery, yeah, please.

18 MR. YOUNG: Yes, I'm aware of that development  
19 proposal.

20 Q And it got stopped because of public pressure,  
21 basically?

22 MR. YOUNG: That's my understanding, yeah.

23 Q Now, being an NGO, you're familiar how difficult  
24 it can be to get public involvement on all of the  
25 issues, habitat issues, that effect salmon  
26 generally, and sockeye specifically. Can we rely  
27 on public pressure to keep dealing with our  
28 habitat -- potential habitat concerns, or do we  
29 have to find a better way to do it?

30 MR. YOUNG: I think the Wild Salmon Policy is fairly  
31 clear in identifying the importance of evaluating  
32 habitat and then using that information to guide  
33 DFO's responsibilities with respect to protecting  
34 habitat for salmon.

35 Q Yeah. And I guess that was my problem, is how we  
36 deal with habitat and the Wild Salmon Policy is  
37 it's kind of another process has been set up. And  
38 have you heard of the concept of salmon  
39 strongholds, where they're sort of like a park and  
40 development is prohibited once you've declared  
41 something critical salmon habitat; are you  
42 familiar with that concept?

43 MR. YOUNG: I'm familiar with the concept of salmon  
44 strongholds, although I think it's a bit more  
45 complex than just that simple definition, but yes.

46 Q Would you agree with me that it's better to  
47 prohibit development in critical areas than leave

1           it up to another process and meetings and paper  
2           and all that stuff that we've seen?  
3   MR. YOUNG: I think the Wild Salmon Policy gives us an  
4           opportunity to evaluate habitat at a conservation  
5           unit level, and identify, for example, critical  
6           habitat for conservation units perhaps somewhat  
7           consistent with what would be required under **SARA**,  
8           and with that information I think that could give  
9           DFO a strong basis for prioritizing protection of  
10          that critical habitat.  
11   Q       Thank you. Mr. Ryall, I just had a couple of  
12          quick questions for yourself. You were stating  
13          that we're not there -- Mr. Harvey raised some  
14          questions we're not there on the amount of  
15          carrying capacity in certain lakes, and you're  
16          just not entirely confident in the science yet; is  
17          that correct?  
18   MR. RYALL: I said there was a lot of uncertainty in  
19          what those carrying capacity estimates are.  
20   Q       And I guess my question is: How do you manage, in  
21          the event of uncertainty, obviously the Salmon  
22          Commission managed in a great state of uncertainty  
23          from, say, 1940 to 1993, without all these papers  
24          and stuff. Can you explain how they successfully  
25          managed to rebuild all the runs and not bring us  
26          the kind of chaos we've seen in the last 20 years?  
27   MR. RYALL: Well, they had quite a scientific body  
28          attached to the International Pacific Salmon  
29          Fisheries Commission that developed tools for  
30          management of sockeye that was based upon science.  
31          So they undertook quite a range of studies within  
32          the Fraser Watershed that helped improve their  
33          management as well.  
34   Q       And all those studies have been available to DFO,  
35          I guess, for the last 20 years?  
36   MR. RYALL: They've been available to public at large.  
37   Q       Thank you. Mr. Morley, I think it's your last  
38          chance, maybe you might --  
39   MR. SAUNDERS: Mr. Commissioner, would it be possible  
40          for me to add --  
41   Q       I'm sorry, go ahead.  
42   MR. SAUNDERS: -- a little bit to Mr. Ryall's? I think  
43          one of the bigger issues we've got in front of us,  
44          despite having on these productivity issues of  
45          lakes and other things and the impacts the marine  
46          survival and the en route mortality that Mr.  
47          Morley referred to, and freshwater survival, these

1 things are changing dramatically under climate  
2 change. So to expect, you know, the uncertainty  
3 that goes along with these things are constantly  
4 changing what we are going to experience and have  
5 to deal with. So I think it's an important  
6 context to consider.

7 Q So if you were managing in a state of uncertainty,  
8 one method, when you're trying to deal with  
9 escapement levels, is, "I'm not going to double my  
10 escapement level this year, I'm going to maybe add  
11 10 percent and then I'm going to watch carefully  
12 when I see the spawner to return ratio start to  
13 decline, I may be getting a little more cautious,"  
14 that's one alternative way to do it, rather than  
15 just say, "We're going to go from two million  
16 escapement this year to five million next cycle"?

17 MR. SAUNDERS: I'm not feeling I can comment on an  
18 actual in-season management strategy, but the fact  
19 that we're dealing with a time, you know, you  
20 talked about ease of rebuilding, or difficulty, I  
21 think we're rapidly moving into several upcoming  
22 decades that, regardless of what actions we take,  
23 the marine survival and the impact of climate  
24 change may see us -- we're seeing fractions of the  
25 survival that we saw compared to what we saw 10  
26 and 15 and 20 years ago.

27 So we're just moving into a time where these  
28 fish, regardless of what we do, are seriously  
29 threatened by the changing climate. And, as well,  
30 we're also in a time when the impacts of the human  
31 footprint is continuing to increase, which we  
32 don't have a good track record in that regard.

33 Q So we've had periods of bad marine survival, and  
34 1961 comes to my mind, where we expected a whole  
35 bunch of fish and not that many sockeye came. Why  
36 is it more difficult, today, than then?

37 MR. SAUNDERS: I think these fish are amazingly robust  
38 in terms of their ability, but it's an -- you may  
39 have gone through periods of episodic impacts on a  
40 one-year or a two-year, but this going -- this is  
41 impacts that we are going to see that continually  
42 push these fish to the limits, and the en route  
43 mortality you speak of, they're physiological  
44 limits, just the temperature and the implications  
45 of disease, once you move into those areas, the  
46 implications are very difficult to know whether  
47 the fish will survive them.

1                   Whether or not they've got the -- and this  
2                   speaks to the importance of maintaining the  
3                   biodiversity that we've got in the system, you  
4                   don't know whether or not there's enough -- these  
5                   fish can rapidly -- how rapidly they can adapt to  
6                   the conditions that they're going to experience,  
7                   which are going to be under climate change, as  
8                   we've already seen in the extreme.

9                   Q    Thank you. Mr. Morley, as I was saying, this may  
10                   be the last -- you may be the last commercial --  
11                   public commercial representative before the  
12                   Commission. Anything that, you know, we've got a  
13                   couple minutes here left, that you want to cover  
14                   off that you haven't had a chance to tell the  
15                   Commissioner?

16                  MR. MORLEY: Don't put me under too much pressure at  
17                   all.

18                  Q    I give you two minutes to sum up the history of  
19                   the fishery.

20                  MR. MORLEY: Mr. Commissioner, I mean, I had several  
21                   opportunities to speak up here and, you know, as  
22                   has been indicated, I haven't had counsel  
23                   representing me to get out exactly the testimony I  
24                   may want to get out. But, you know, in terms of  
25                   my reflection of what we're facing here is that  
26                   the -- and I'm quite fearful that, in fact, we are  
27                   about to see some increasing pressure on the  
28                   Department of Fisheries and Oceans' budgets in the  
29                   face of government restraint and trying to balance  
30                   their budget, and I am very concerned that, in  
31                   fact, the nature of the task that the Department  
32                   of Fisheries and Oceans is being asked to do in  
33                   managing this complex resource over the last 40 or  
34                   so years, has changed dramatically, and they are  
35                   being expected to satisfy a lot more government  
36                   roles than what they used to in the past, and  
37                   they're a very diverse department, covering all  
38                   the way from oceans planning to the coast guard,  
39                   have increasing responsibilities as a result of  
40                   treaties and court cases to do with First Nations,  
41                   and that the -- what I see having transpired over  
42                   that time period is that the Department's focus on  
43                   their core mandate has completely -- has been  
44                   completely dissipated and their management  
45                   structure has evolved to be a highly complex  
46                   matrix organization, which only adds to the  
47                   difficulty of them coordinating what limited

1 resources they have on their core mandate.

2 And I guess what I would hope, coming out of  
3 this, is that clearly there's many people  
4 concerned about them undertaking their core  
5 mandate of managing our fisheries resources, in  
6 particular Fraser sockeye, in such a way that it  
7 not only preserves healthy populations, but also  
8 enables the tremendous benefits that are available  
9 from the surplus that we can generate from the  
10 stocks to be enjoyed by a variety of interests.

11 And I would really like to see there be a  
12 serious look at how they can have their mandate  
13 and organizational structure change so that they  
14 have a much more hierarchical line management  
15 responsible for the core issues of science, stock  
16 assessment, monitoring, enforcement, and  
17 developing fishing plans. And that's really what I  
18 think many people in the industry would like to  
19 see happen here.

20 Q If I could sum it up, perhaps, it's get back to  
21 the basics of fishing management?

22 MR. MORLEY: Absolutely, yes.

23 MR. EIDSVIK: Thank you, Mr. Morley, and Mr. Young.  
24 Thank you. And Mr. Ryall. Thank you, Mr.  
25 Commissioner.

26 MR. WALLACE: Mr. Eidsvik, thank you. Ms. Gaertner?

27 MS. GAERTNER: Mr. Commissioner, Brenda Gaertner, and  
28 with me, Leah Pence, for the First Nations  
29 Coalition. Mr. Commissioner, I've been allotted  
30 one hour. I will take one hour. I'm wondering if  
31 you would be interested in taking the 10-minute  
32 break now and then just having me finish in that  
33 hour?

34 THE COMMISSIONER: I'm very content to do that. I just  
35 don't know how much re-examination we have, and I  
36 just want to find out --

37 MS. GAERTNER: I can actually check that over that 10-  
38 minute period.

39 MR. WALLACE: Mr. Commissioner, I think Ms. Gaertner's  
40 correct, we did allocate an hour to her and we are  
41 at a point where that would eat up the balance of  
42 the time with the 10-minute break. Perhaps this  
43 is another situation where written re-examination  
44 might be acceptable?

45 THE COMMISSIONER: I would prefer not. I would prefer  
46 you and Ms. Gaertner to sort it out. And I'm  
47 going to take the break now. I'll adjourn at



1 4:00, and if the two of you could sort out the  
2 time available as to how you want to divide that  
3 up, I think that would be the most appropriate way  
4 to complete this afternoon.

5 MR. WALLACE: I will discuss it with Ms. Gaertner.

6 THE COMMISSIONER: Thank you.

7 THE REGISTRAR: The hearing will now recess for 10  
8 minutes.

9

10 (PROCEEDINGS ADJOURNED FOR AFTERNOON RECESS)

11 (PROCEEDINGS RECONVENED)

12

13 THE REGISTRAR: The hearing is now resumed.

14 MR. WALLACE: Thank you, Mr. Commissioner. Ms.

15 Gaertner and I have spoken, and she offered to do  
16 her very, very best, which she always does, to  
17 give me a little time at the end, and I will do my  
18 very best to make proper use of it. I may well  
19 reiterate my request for written questions at the  
20 end of that.

21 MS. GAERTNER: Thank you, Mr. Commissioner.

22

23 CROSS-EXAMINATION BY MS. GAERTNER:

24

25 Q I think it's fairly straightforward at this point  
26 in time, but I would like to take you to Exhibit  
27 8, which is the Wild Salmon Policy, to page 25.  
28 And while John's not here, I'll just summarize  
29 what you'll see there, Mr. Commissioner.

30 At the top of that page you'll see that when  
31 the Wild Salmon Policy was finalized, there were  
32 basically two action steps for Strategy 4. One is  
33 the establishment of an interim process, and the  
34 second was the development of a new integrated  
35 planning structure. And so my questions today are  
36 going to lift off of that understanding, and I'm  
37 going to focus on some of the challenges  
38 associated with the new integrated planning  
39 process, in particular the governance structures  
40 associated with that. And then secondly I'm going  
41 to turn to some of the challenges associated with  
42 the interim process. And so those are the two  
43 primary areas in which I'm going to ask questions.

44 And, gentlemen, I am going to be directing  
45 most of my questions to the Department of  
46 Fisheries and Oceans representatives, and I'll  
47 catch up if I can with both of the others as time

1 allows. So you may be able to just relax a little  
2 bit, given that it's Friday afternoon, and we'll  
3 do some work with Mr. Ryall and Mr. Saunders.

4 Now, Mr. Saunders, you've given evidence in  
5 this inquiry earlier on the Wild Salmon Policy.  
6 And I'll just refresh the Commissioner's memory,  
7 that Mr. Saunders was actively involved in the  
8 development of the Policy as it relates to talking  
9 and working with some of the meetings with the  
10 First Nations. So he'll be able to give us a  
11 backdrop of, as necessary, what was understood at  
12 the time in which the Wild Salmon Policy was  
13 completed.

14 I'd like to go first to Exhibit 952, and if  
15 you could also bring up 953, and go directly to  
16 page 9 of 952. Now, as I understood your evidence  
17 earlier, Mr. Ryall, you got Sandy Fraser, who's  
18 been working with fisheries management at DFO and  
19 was actively involved with Mark in the development  
20 of the Wild Salmon Policy, to do some follow-up  
21 work in 2010, if I've got my dates correct, on  
22 some of the implementation issues around Strategy  
23 4; is that correct?

24 MR. RYALL: Yes. Sandy was a Department employee and  
25 upon his retirement I also wanted to keep him  
26 engaged, and given his experience on the Wild  
27 Salmon Policy, and had some contracts with Sandy  
28 to undertake some work on how to develop  
29 integrated plans, and also what scale they would  
30 be taken at and provide some guidance on what  
31 could be included in those strategic plans. And  
32 he undertook that work, some in 2007 and some in  
33 2009.

34 Q And I'd like to go to page 9 of Exhibit 952, if I  
35 may. And the paper clearly sets out something of  
36 strong importance to my clients in the first  
37 paragraph under how is this integration to be  
38 achieved. And the writer says:

39  
40 In the longer term, the Policy envisages  
41 integration being achieved through a new  
42 planning structure. The Policy identifies  
43 bilateral consultations between Governments  
44 and First Nations as the foundation for this  
45 new structure. These consultations "will  
46 then need to be complemented by broader local  
47 and eventually region-wide input". The

1 policy anticipates that these consultations  
2 will result in the establishment of local  
3 area planning committees for various sub-  
4 regions that can bring together all local  
5 First Nations governments, harvesters,  
6 community interests, local and regional  
7 government and other stakeholders.  
8

9 And if I look at the bottom of that page and check  
10 the references for that, he's primarily  
11 referencing page 27 and 20 of the Wild Salmon  
12 Policy and Appendix 3.

13 And so, Mr. Saunders, and Mr. Ryall, you can  
14 confirm that this is essentially lifting off from  
15 the Wild Salmon Policy and the understanding that  
16 First Nations and government had at the time when  
17 we completed that work back in 2005.

18 MR. SAUNDERS: I would concur with that.

19 Q Mr. Ryall, in your evidence yesterday, you  
20 mentioned that -- I notice that this report is  
21 marked draft, "Final Draft", and then the next  
22 report by Mr. Fraser in October of 2009, so  
23 between March and October 2009, isn't marked  
24 draft, and it's a much thinner report and doesn't  
25 contain any of the types of language I've just  
26 read. The second report is not the completed  
27 version of the first; is that correct? It's a  
28 different report. It's not intended to be the  
29 same report?

30 MR. RYALL: It was not intended to be the same report,  
31 that's right.

32 Q Do we have a final draft of the first one, or  
33 shall we use the one that's here as the completed  
34 draft. Does final draft mean like there's no more  
35 drafts and we've got one, or what have we got  
36 here?

37 MR. RYALL: You've got a final draft, which means that  
38 there are no other ones past that.

39 Q All right. So it's the final version of the  
40 report. It's no longer a draft.

41 MR. RYALL: Sure. I agree.

42 Q All right. Now, Mr. Saunders, you'll agree that  
43 during the meetings with First Nations in 2005  
44 there were concerns raised by First Nations at the  
45 time around how this integrated process would  
46 work, vis-à-vis the priorities of their  
47 constitutional rights, and whether or not such

1 integrated processes could have the effect of  
2 diminishing their place at the table.

3 MR. SAUNDERS: Yes.

4 Q And I'd now like to turn to Exhibit 951, And  
5 that's the Strategic Developments (sic) Committee  
6 Ops reference that we've just heard about, and I  
7 want to go to page 4. And what I see on the  
8 third bullet there is a:

9  
10 Linkage between Strategy 4 and other  
11 initiatives, both internal and external  
12

13 And I understand Mr. Leadem took you to a number  
14 of these. But I wonder if you could go to the  
15 third one:

16  
17 Pacific Region "Co-Management Framework".  
18

19 And could you tell me whether or not that bullet  
20 references -- now, if you could go to First  
21 Nations, our document number 6, this report.

22 MR. RYALL: I don't know whether it's referencing this  
23 report, per se. The bullet here:

24  
25 Pacific Region "Co-Management Framework".  
26

27 Is something that Corey has been working on.

28 Q And so this second document that I'm taking to  
29 you, are you familiar with this document?

30 MR. RYALL: I don't think I've seen this before.

31 Q Mr. Saunders, have you seen it?

32 MR. SAUNDERS: I am not familiar with it, no.

33 Q So you weren't provided our documents? It was in  
34 our tabs that as it related to this hearing,  
35 sorry, or you may not have had time to look at it?

36 MR. SAUNDERS: No, I apologize. I've not had time to  
37 take a look at it.

38 Q So it's a document, Mr. Commissioner, by Corey  
39 Jackson, who is an employee of the Department of  
40 Fisheries and Ocean; is that correct-- oh, it's  
41 prepared for Corey by Julie Gardner. You're all  
42 familiar with Julie Gardner and her expertise in  
43 this area? I'm wondering if you could say yes  
44 into the mike.

45 MR. RYALL: Yes.

46 Q Thank you. I'd like that marked as the next  
47 exhibit, please.

1 MR. SAUNDERS: Yes.  
2 THE REGISTRAR: Exhibit 972.

3  
4 EXHIBIT 972: Gardner, An Overview of Issues  
5 Concerning First Nations and DFO Co-  
6 Management of Fisheries in the Pacific  
7 Region, Draft  
8

9 MS. GAERTNER:

10 Q And I wonder if I could take you to the bottom of  
11 page 25 of that document. And I regretted and I  
12 appreciate the complexities associated that with  
13 this, we have a number of stakeholders here, but  
14 we didn't have First Nations representation on  
15 this panel, so I just want to be clear about some  
16 of the challenges they have with Strategy 4. And  
17 Ms. Gardner at page 25 says this:

18  
19 The priority on [g-to-g] consultation (Tier  
20 2) often leads First Nations to be reluctant  
21 to take a seat at the table in multilateral  
22 processes. They argue that effective Tier 2  
23 processes must be properly established and  
24 working before multiparty processes can  
25 [proceed].  
26

27 You'll agree that that is a consistent concern  
28 First Nations have as it relates to the  
29 implementation of integrated planning processes  
30 such as Strategy 4?

31 MR. RYALL: I would agree from my experience that First  
32 Nations have been cautious and somewhat reluctant  
33 to engage in Tier 3 type processes. In recent  
34 meetings that I've had with the First Nations  
35 Fishery Council, for example, though, they also  
36 recognize that the importance of participating in  
37 Tier 3 type processes, and I guess need to be  
38 thinking about how they would be engaged in this.  
39 but overall, I would say I agree that there has  
40 been concerns, and just without a well-established  
41 Tier 2 process that there has been some  
42 reluctance. Yes.

43 Q All right. Now, I'd like to go back to Ms.  
44 Gardner's report and go to page 26, because I'd  
45 like to hopefully spend some time focusing on the  
46 steps forward as distinct from the well-known  
47 concerns. And she says a couple of things at the

1 bottom of page 26 and over to page 27 and 28, and  
2 I'll just go to the bold ones, since you haven't  
3 had a chance to review this before today. In  
4 particular she suggests:

5  
6 ...written assurances that DFO will not  
7 unjustifiably infringe Aboriginal or treaty  
8 rights.  
9

10 Within these processes. Secondly she suggests  
11 over at page 27:

12  
13 Ensure multilateral processes do not push  
14 aside consultation and accommodation, where  
15 appropriate.  
16

17 Third she suggests:

18  
19 Conduct [those] consultations in connection  
20 with [those] processes.  
21

22 Use the three-tier framework...  
23

24 All of those are matters that are going to be a  
25 challenge for the Department of Fisheries and  
26 Oceans in implementation, is that correct, Mr.  
27 Saunders?

28 MR. SAUNDERS: I think they are a challenge. I would  
29 agree they are a challenge, yes. And I think it's  
30 a challenge for First Nations, as well, in this  
31 regard, but I -- yes, I agree.

32 Q Just wondering, if we can now go back to exhibit  
33 -- sorry I'm jumping around, Mr. Lunn, but if we  
34 could go back to Exhibit 951, which is this April  
35 meeting of the Strategic Committee. And if we go  
36 to bullet 4 on page 11, which is their  
37 observations of what needs to go on and what needs  
38 to happen next. Now, wait a second, bullet 4,  
39 page -- oh, there:

40  
41 Need for clear governance structure, roles  
42 and responsibilities and accountability...  
43

44 And if I have it correct, later in the document  
45 when they're doing next steps, they want to make  
46 sure that DFO's internal governance structures are  
47 developed. Do you also agree that concomitant

1 with the DFO developing their internal structures,  
2 a high priority for implementing these matters is  
3 going to be a governance structure that works  
4 collaboratively and well with First Nations?

5 MR. RYALL: I would agree with that.

6 Q And, Mr. Saunders?

7 MR. SAUNDERS: I would agree, as well.

8 Q And would you agree given how much you've worked  
9 on the ground, that developing DFO's internal  
10 structures in a silo, without working  
11 collaboratively with First Nations on their  
12 government structures, could actually be a  
13 problem, that we really need to do this  
14 iteratively and in a way that complements, that  
15 the structures complement each other.

16 MR. RYALL: I would agree with that overall direction.

17 I think that it's going to be a challenge for  
18 First Nations and for the Department of Fisheries  
19 and Oceans. I mentioned that we had recently had  
20 some meetings with the First Nation Fisheries  
21 Council, and that's just -- not just one body, but  
22 it's a significant body, and we've had those types  
23 of discussions about how to thinking more  
24 strategically about how to move forward.

25 Q Yes. And the First Nations Fisheries Council is  
26 one of my clients, and they are going to have some  
27 time and, Mr. Commissioner, with you later in the  
28 "fishing week" to talk about this in a little bit  
29 more detail from their perspective. So I'll do my  
30 best with these witnesses today. It would have  
31 been great to have had you all as one big happy  
32 family, but we haven't got that today, so we'll do  
33 what we can.

34 Mr. Saunders and Mr. Ryall, I want to ask  
35 specifically, now, take a step away from these  
36 documents. What I've just talked to you about  
37 isn't new to you. It isn't new to my clients.  
38 But it is a challenge for the Department. What do  
39 you think we need to do? What do you think we  
40 need to do get this project, this part of the work  
41 done? How much money do we need? How much time  
42 do we need? What type of focus do we need to  
43 actually get a functioning governance structure  
44 that could do this kind of integrated work,  
45 exactly as agreed to under the Wild Salmon Policy  
46 in a manner that's functional and efficient  
47 between First Nations and government?

1 MR. SAUNDERS: Well, at the risk of, well, Mr. Morley  
2 beside me, his reaction, but I think it would be a  
3 -- we would require a process to come together.  
4 And I think if you look at this document that's in  
5 front of us right now, we were laying out a bit of  
6 an internal course of action, starting to put  
7 together a process. And I think it does need --  
8 very quickly we would need to engage First Nations  
9 and others in that discussion about how we move  
10 forward with the idea of efficiency being -- and  
11 capacity being, you know, a number of principles  
12 that we would build around to end up with a  
13 process that we could all think was practicable,  
14 but also appropriate for all the parties involved  
15 to design a process to go forward.

16 In terms of the resources that it would take,  
17 I think, I mean, we know that these processes and  
18 development of the policy are -- and Mr. Morley  
19 was speaking to, you know, the cost of  
20 facilitation and which is something, capacity we  
21 don't have, and I've seen it as a critical element  
22 in trying to keep the parties at the table. But  
23 it's true that that is not -- the cost of bringing  
24 these meetings together is not insignificant.

25 I think a lot of this would depend, if you  
26 took the amount that it takes to get together,  
27 say, to plan Cultus, or to plan and try to  
28 multiply that times 400, I think you very quickly  
29 get to an unreasonable number. But I think if we  
30 -- if there are principles and efficiencies that  
31 we're willing to work towards, I think we could.  
32 I don't have a solid number of what that would  
33 take. I know the Department is probably one of  
34 the Departments that has probably the largest  
35 capacity, or at least the largest involvement with  
36 engagement of community.

37 So I think there are resources to work with  
38 there. But it would -- an outcome of this work  
39 would be a determination of what it would actually  
40 take to make it happen.

41 Q All right. Maybe I could go to page 46 of Exhibit  
42 -- oh, the most recent exhibit, the Gardner  
43 report, 972, just to see if we can focus the  
44 conversation a little bit more, Mr. Saunders. The  
45 writer of the report makes one, two, three, four,  
46 five, six suggestions on "Promising directions"  
47 for how to get this work going, and I don't think



1           it's in any way inconsistent with what you've just  
2           said. But she points to what I will call an  
3           incentive, in addition to all of this. And so she  
4           suggests that:

5  
6           Build the capacity of DFO --

7  
8           - first of all -

9  
10          -- to implement and engage in co-management.

11  
12         And:

13  
14          Build the capacity of First Nations to engage  
15          in co-management.

16  
17         And then she suggests:

18  
19          Acknowledge and tap into existing First  
20          Nations capacity.

21  
22          Support First Nations aggregations in their  
23          capacity-building work.

24  
25          Provide assistance to First Nations to  
26          support participation...

27  
28         And:

29  
30          Go to extra efforts to engage [those] First  
31          Nations that are lacking capacity.

32  
33         Do you think that those are useful ways of looking  
34         at directions going forward as to how we're going  
35         to get this work done?

36         MR. SAUNDERS: I don't feel I can comment specifically  
37         on the detail of this paper without spending more  
38         time with it. But I think a key thing that I'm  
39         not aware of is how their definition of co-  
40         management in this discussion. I mean, if we're  
41         talking development of strategic plans under the  
42         Wild Salmon Policy is probably, I don't know  
43         whether that --

44         Q         Only one part, if I could be helpful.

45         MR. SAUNDERS: It would be one part of co-management.

46         Q         That's right.

47         MR. SAUNDERS: If we're going to true co-management.

1 Q That's right. And that is actually what the  
2 report says. I know that you can't take my word  
3 for it, but having read the report, she does at  
4 the beginning of the report review the issues of  
5 what is definition of co-management and the work  
6 that we have to do there.

7 But you'll agree with me that from a First  
8 Nations perspective, even as it relates to  
9 Strategy 4, they're going to need to understand  
10 how their participation in the Strategy 4, a  
11 single integrated planning process is going to  
12 work holistically as it relates to the  
13 implications on their rights, and the exercise of  
14 what they consider their governance  
15 responsibilities around co-management.

16 MR. SAUNDERS: I would agree.

17 Q Mr. Ryall, you'd also agree?

18 MR. RYALL: I would agree, yes.

19 Q All right. Now, just on that scale issue that you  
20 were referencing, Mr. Saunders. In his evidence  
21 yesterday Dr. Riddell, I had a bit of a discussion  
22 with him about that, also, and he talked about  
23 from his experiences the benefits of moving to at  
24 least First Nations linguistic group areas, and  
25 we've heard discussions about geopolitical  
26 responsibilities. Would you agree that that might  
27 be a useful way of targeting how to move towards  
28 scale issues as it relates to integrated planning?

29 MR. SAUNDERS: Can you give me a little bit more about  
30 what you're thinking in terms of what applies to  
31 it, the First Nations linguistic boundaries.

32 Q Yes. Well, I actually didn't use the word  
33 "boundaries" deliberately.

34 MR. SAUNDERS: Sorry, linguistic --

35 Q I talked about First Nation linguistic groups.

36 MR. SAUNDERS: Groups. Probably not an area that I  
37 feel entirely comfortable in, but we certainly in  
38 our development of the conservation units came to  
39 the realization in our discussions with First  
40 Nations that there was a fair degree of  
41 consistency between the adaptive groups of -- the  
42 definition of a conservation unit and the  
43 linguistic areas that you refer to, and I know  
44 that I've been involved in a number of projects  
45 where they have been working on tribal boundary  
46 and treaty around, you know, more integrated  
47 process for First Nations around tribal

1 boundaries, which I know aren't exact fit with the  
2 linguistic. But I think those areas show promise  
3 in that regard.

4 Q And if we added to that provincial  
5 responsibilities as another component of looking  
6 at the areas' goals at scale, and how the province  
7 divides up their responsibilities, that might be a  
8 useful way of collaboratively bringing the three  
9 orders of government, First Nations, the Province  
10 and the Crown, who are all involved in this work,  
11 together, to figure out what the appropriate scale  
12 might be for doing this type of planning.

13 MR. SAUNDERS: I would agree with that.

14 Q If I could just ask a question of you, Mr. Ryall.  
15 I know that you want to jump in on this for a  
16 second. But before you do that, who is  
17 responsible? I heard you say that you did do some  
18 meetings with the Province as it relates to some  
19 parts of the Wild Salmon Policy, and then I heard  
20 later that you haven't been actively involved in  
21 that. Who in the Department is responsible for  
22 collaboration with the Province as it relates to  
23 implementation of Strategy 4?

24 MR. RYALL: Well, it depends on what scale you mean. I  
25 mean, there's discussions between senior  
26 management within DFO and the Province around a  
27 host of activities, and one of those being Wild  
28 Salmon Policy. And the committee that we referred  
29 to earlier was more of a working group -- not  
30 working group, that's not accurate. It was  
31 providing an update. So there's various ways of  
32 interacting with the Province on the  
33 implementation.

34 The only other piece I was going to add on  
35 top of your earlier -- about the province and how  
36 they plan the freshwater adaptive zones were  
37 something that province uses, as well, is my  
38 recollection, and were basically developed by  
39 them, and they're one of the foundations of the  
40 conservation units and how they were developed.  
41 So there is this overlap. The other meaning with  
42 what the Province is thinking, and those are tied  
43 back to biological definitions.

44 The other thing I would add in recent years,  
45 recent year for sure, anyhow, is that I'm much  
46 more encouraged about the discussions that we have  
47 been undertaking with First Nations about how to

1 structure some of these ways of going forward,  
2 whether it be through working groups, technical  
3 working groups, or at a higher broader scale with  
4 First Nations Fisheries Council, a regional body,  
5 and their thinking about how they would organize  
6 themselves with their resources, and get the most  
7 out of that strategically. And thinking about how  
8 they organize regionally, and there had been  
9 discussion around -- basically the last I saw was  
10 14 sub-regional areas within B.C., and they were  
11 talking about setting boundaries around that. And  
12 I'm sure that's progressed since I've last spoken  
13 to them, as well.

14 Q Okay. Now, I'm not so worried about Mr. Morley's  
15 response to this, so I'm going to ask you a  
16 question, Mr. Morley. I know that Mark was a  
17 little worried about that. But as I heard your  
18 evidence earlier today, and in particular your  
19 thoughtful responses to Mr. Rosenbloom, you  
20 commented on the challenges about who needs to be  
21 involved where and how much processes need to go,  
22 and is it efficient. And as I heard your evidence  
23 correctly, at least that that part of industry  
24 that you're representing, and you made comments  
25 about Area B and D, that you'd be somewhat content  
26 to be left out of a process for a while until  
27 technical and even some of the identification of  
28 options and evaluations was produced. Did I hear  
29 that evidence right?

30 MR. MORLEY: My evidence is I believe that all of the  
31 major stakeholders should be kept out of it, and  
32 the only inputs at the initial steps would be  
33 technical inputs addressing some of the Strategies  
34 1, 2 and 3, as well as some input from groups with  
35 respect to how you would evaluate the variety of  
36 potential benefits and that you can derive from  
37 different management approaches. So evaluation  
38 methods for First Nations or recreational or  
39 commercial kind of fisheries, and evaluations of  
40 other environmental benefits, input on that  
41 technique. But that the essential drafting the  
42 elements of -- scoping out the elements of a plan  
43 and laying out management alternatives, and  
44 habitat management alternatives could be done  
45 largely with technical teams much quicker and  
46 efficiently. And we would actually probably be in  
47 a position today where we'd have, having had this

1 Policy around now for six or seven years, that we  
2 would actually have the scope of a whole variety  
3 of plans in place already, in my opinion.

4 Q While I ask the next question could you bring up  
5 page 26 of the Wild Salmon Policy.

6 Mr. Morley, I want to make sure I've got this  
7 right. Are you saying that your suggestion is  
8 First Nations shouldn't be involved in that work?  
9 I thought I heard you say that to the extent that  
10 First Nations want to participate and have  
11 technical capacity, they should go ahead and do  
12 that. And of course the Wild Salmon Policy  
13 implicitly has throughout the document First  
14 Nations engagement from the get-go in all of these  
15 stages. So you'll understand -- I'm sure you  
16 understand that component.

17 MR. MORLEY: I understand everything that's written in  
18 the Wild Salmon Policy, and I understand that it's  
19 a pipe dream, that if we live up to everything  
20 that's written by the letter in the Wild Salmon  
21 Policy, we'll be here in 25 years from now,  
22 talking about the same thing we're talking about  
23 today. So if --

24 Q So is your suggestion that First Nations be left  
25 out of that discussion?

26 MR. MORLEY: My suggestion is that First Nations be --

27 MR. ROSENBLOOM: If the witness could be permitted to  
28 answer the question. Thank you.

29 MR. MORLEY: My suggestion is that First Nations, that  
30 they should be intimately involved in the  
31 discussions, but that the prior work that should  
32 be undertaken is largely of a technical nature.  
33 And to the extent that there are scientific and  
34 traditional knowledge that relate to specifically  
35 the looking at conservation, the status of  
36 conservation units and looking at habitat and  
37 developing the kind of information background  
38 that's necessary to look at alternatives, that  
39 there is a role for those technical people  
40 involved in that kind of thing. But that it will  
41 work in First Nations as well as others best  
42 interests to go to the table where we're talking  
43 about objectives and how we manage this, with the  
44 best available information as a basis, rather than  
45 starting at the beginning and trying to influence  
46 the final outcomes. Because if First Nations are  
47 doing that, then other stakeholders will demand to

1 be at the table, as well, and we'll go nowhere as  
2 I indicated previously.

3 Q So does that suggest that the other stakeholders  
4 don't have quite a fuller understanding of the  
5 Department of Fisheries and Oceans' obligations to  
6 First Nations as it relates to their  
7 constitutionally protected rights?

8 MR. MORLEY: No, I don't believe it means that in the  
9 slightest. I think that the -- and the real issue  
10 here is ultimately DFO is the manager, it has  
11 constitutional obligations. If we wait until  
12 there's a fully developed completed Tier 1,  
13 satisfactory Tier 2 process, and a Tier 3 process,  
14 we'll be here 15 or 20 years from now, not having  
15 gone anywhere on the Wild Salmon Policy, in my  
16 opinion.

17 Q We're going to go to page 26 in a moment, Mr.  
18 Morley, and I don't think anyone's suggesting we  
19 wait until that happy moment in order to get  
20 moving forward on conservation units.

21 I wonder if I could just, before I go to the  
22 interim processes that we're concerned about here,  
23 I just have one more discussion on this larger  
24 strategic process. And I'm sorry, Mr. Lunn, let's  
25 go back to Exhibit 951, which is that one, and if  
26 you could scroll down, there's that chart that has  
27 that pyramid. Sorry, I don't have the page  
28 number. Keep going, keep going.

29 MR. LUNN: That's the bottom.

30 MS. GAERTNER: Oh, where is the -- sorry, maybe it's --  
31 there it is. Sorry about that.

32 Q I got a little confused when I heard the evidence  
33 earlier today, because as I'm understanding the  
34 Wild Salmon Policy planning units that are being  
35 referenced there are much more specific than the  
36 management units, since the management units are  
37 done by aggregate. So have I got that right, Mr.  
38 Ryall? If the management units are the four run  
39 stock aggregate units, the planning units that are  
40 being talked about here, you might want to tell us  
41 what FAZ and FPA are, are much more specific than  
42 the aggregates.

43 MR. RYALL: Than the management units?

44 Q Than the management units.

45 MR. RYALL: Than the management units. Well, you know,  
46 I guess we spent a fair bit of time on this simple  
47 diagram, and maybe not quite enough. It was a

1 discussion between myself, Corey and I believe  
2 Wilf Luedke was involved in this. And the intent  
3 was to try to show that there was a hierarchy  
4 within this, starting with the base of the 400-  
5 plus conservation units that could be rolled into  
6 a management group, so that they -- and so you  
7 might be in some cases, the management units  
8 might --

9 Q Let's just talk about Fraser River sockeye salmon,  
10 as it relates to Fraser River sockeye salmon and  
11 this pyramid.

12 MR. RYALL: Yes.

13 Q It's fair to say that as it relates to those, the  
14 two middle ones should almost be reversed, if  
15 we're talking about level of detail. We've got  
16 individual conservation units. Then we might move  
17 to some kind of geographical planning unit, and  
18 then we're going to move to something called a  
19 management unit as an aggregate, and then we're  
20 going to move to the IFMP. In order of detail,  
21 that's a fair observation; is that correct?

22 MR. RYALL: It could go either way. The FAZ, or the  
23 freshwater adaptive zones, and the FPAs are the  
24 fishery production areas, and you know, there's a  
25 map in the -- that came originally from the Blair  
26 Holtby document, identifying the conservation  
27 units, and it's referenced in Sandy's paper that  
28 shows how many freshwater adaptive zones were in  
29 the Fraser. So there's more -- my recollection is  
30 I think there's five or six, but we could pull  
31 that up and take a look. So, I mean, maybe they  
32 flip, but I don't really think the -- the point is  
33 that there is a hierarchy here and Fraser sockeye,  
34 maybe they are reversed.

35 Q All right.

36 MR. RYALL: But I wouldn't say that's the case in all  
37 instances.

38 Q But if we were looking at scales, that's going to  
39 be useful. We'll move from individual  
40 conservation units. We might then move into  
41 geographical areas in which those conservation  
42 units are located. We might even look at  
43 linguistic -- First Nations linguistic  
44 distinctions as a way of identifying those  
45 geographical areas, and then we might move further  
46 into how those areas affect management units and  
47 management decisions, and IFMP. That might be a

1           useful thing to look at. Do you agree with me on  
2           that, Mr. Saunders?

3       MR. SAUNDERS: Yes, I do.

4       Q     All right. I don't have enough time to continue  
5           in this discussion. I'm going to have to move on,  
6           and I apologize for that. I think we've got some  
7           ideas on how we might improve the governance  
8           structure.

9           I just have one question on the larger  
10          socioeconomic issues. The Commissioner has the  
11          list of -- in the exhibit the list of  
12          socioeconomic reports that have been done to date.  
13          It's my client's understanding that there have not  
14          been a fulsome approach identifying food, social  
15          and ceremonial socioeconomic implications  
16          associated with the Wild Salmon Policy. Would you  
17          agree with me on that, Mr. Saunders?

18       MR. SAUNDERS: I would say that in general the social  
19          values in our integrated planning that we've  
20          attempted haven't been well-understood or  
21          reflected.

22       Q     And in fact I have yet to see a report, and I know  
23          Mr. Ryall in his last testimony pointed us to some  
24          of them, and I asked him questions and answers.  
25          I'm not going to ask you to repeat them, Mr.  
26          Ryall, you were fulsome in your responses on them.  
27          It's clearly an area of work that needs to be done  
28          to understand the socioeconomic impacts of both  
29          the benefits and the potential impacts of  
30          tradeoffs associated with the Wild Salmon Policy  
31          implementation on the exercise of food, social and  
32          ceremonial rights. That's work that we need to  
33          do; is that correct?

34       MR. SAUNDERS: That certainly falls within -- as one of  
35          the social and economic considerations that does  
36          need to be folded in. I will say from a Science  
37          perspective, we've been interested for some time  
38          in this notion of bioeconomic models that can link  
39          the understanding of the -- and of the biology of  
40          the fish with the social and economic systems in  
41          time and space, so that there are mechanisms, but  
42          they haven't been pursued to this point.

43       Q     And do you also think it would be useful to get a  
44          foundational document completed as to how you  
45          would even approach doing a socioeconomic analysis  
46          on food, social and ceremonial priority rights for  
47          First Nations and the impacts under Wild Salmon



1 Policy? It's get a foundational document as to  
2 how we're going to even approach that work. I  
3 have not seen that. Have you seen such a thing?

4 MR. SAUNDERS: I haven't seen such a thing, no.

5 Q Do you think that that would be a useful next step  
6 in trying to begin to understand the implications  
7 of the implementation of Wild Salmon Policy and  
8 the tradeoffs?

9 MR. SAUNDERS: I would think a foundational document on  
10 the socioeconomic approach in general, and I must  
11 admit I'm not familiar with the document that's  
12 been referenced that has been under development  
13 nationally, so I'm outside my science box, but  
14 certainly would be something to pursue.

15 Q Well, I was just interested, and we could call up  
16 the exhibit. I don't have it in front of me. But  
17 we've got a list of all the socioeconomic reports  
18 that the Department of Fisheries and Oceans think  
19 have been completed. We don't have anything on  
20 the implications of the Wild Salmon Policy as it  
21 relates to FSC. We might want to take that as the  
22 next step.

23 MR. RYALL: I think there's been studies done on trying  
24 to equate the FSC amounts into some sort of  
25 monetary value, which is probably not  
26 satisfactory. And that's one that Gordon Gislason  
27 undertook, and I believe that's what was done in  
28 the Skeena River study, as well. So I think in my  
29 previous testimony we referenced this, as well,  
30 and I think that that probably is not capturing  
31 everything, and which is what Mark is saying, as  
32 well. It's a challenge, and how to take those  
33 into account.

34 MS. GAERTNER: Okay. I'm going to move on. Mr.  
35 Commissioner, I can say now that I am likely going  
36 to need my entire time, and so we're going to have  
37 to deal with redirect in another way. I  
38 apologize, but I'm doing the best I can.

39 Q I wonder if I could go now to the interim  
40 processes that we anticipate under the Wild Salmon  
41 Policy, and I've got a couple of areas of  
42 discussion with respect to that. I want to first  
43 start with the setting of priority conservation  
44 units. And again just to set the foundation, if  
45 we could now go to page 26 of the Wild Salmon  
46 Policy. Mr. Saunders, in the second and third  
47 paragraph we're talking about what needs to happen

1 in the interim process, and the first suggestion  
2 is that:

3  
4 Until a fully integrated planning process can  
5 be established an interim approach is needed  
6 that will immediately improve integration  
7 between...  
8

9 All of those.

10  
11 This interim approach will meet the  
12 Department's obligations to consult First  
13 Nations...  
14

15 And then we go into the third paragraph, we have  
16 interim procedures that rely on the biological  
17 status of a conservation unit, get some  
18 understanding of what's in the Red zones. And  
19 then I note in the middle of the paragraph:  
20

21 For these priority [conservation units] DFO  
22 will consult with First Nations and then  
23 bring together the various interests from  
24 existing processes to provide recommendations  
25 for protection and restoration.  
26

27 You'll agree with me that that's what the Wild  
28 Salmon Policy set out and that was actually part  
29 of the negotiations with First Nations at the time  
30 in which you completed this, as to how you were  
31 going to go about doing this interim and immediate  
32 process.

33 MR. SAUNDERS: I would agree those are the words in the  
34 Wild Salmon Policy, and I know we had many  
35 discussions. I don't know exactly that those  
36 words that were written there reflect, you know, a  
37 direct consequence of specific language that was  
38 asked for, but certainly the overall intent was  
39 what was asked for, yes.

40 Q All right. And if we wanted to pull up Commission  
41 document number 2. I don't know if we need this,  
42 and I know it's marked as an exhibit. Mr. Ryall,  
43 you talked about the work that happened in 2007  
44 around the development of a table of priority  
45 conservation units. So it's two years after the  
46 policy, and going to the Regional Management  
47 Committee, and then them approving that, and

1           actually going, telling -- you getting direction  
2           from the Ops Committee to actually move ahead with  
3           pilots. Why didn't they approve the interim  
4           conservation units? What prevented them from  
5           doing that?

6       MR. RYALL: I'm not sure they didn't approve of --  
7           you're meaning the interim priorities?

8       Q       Yes.

9       MR. RYALL: So they felt that, well, that was a good  
10           guide, and that was, as we were talking about  
11           yesterday, that they were based upon the Salmon  
12           Outlook as the categories that were in the Red  
13           zone. I think that they were feeling that rather  
14           than coming to a conclusion on what the priorities  
15           were, based upon that analysis that there is also  
16           work underway that was already encaptured within  
17           the Integrated Fishery Management Plan. And they  
18           were also wanting to better understand what the  
19           implications were of embarking upon a development  
20           of a strategic plan, and felt the best way to do  
21           this sequentially was to pick an area as a pilot,  
22           and that area that was picked was Barkley Sound.

23       Q       So Barkley Sound doesn't give us any priority CU  
24           information as it relates to the Fraser River  
25           sockeye salmon, though, does it.

26       MR. RYALL: As far as Fraser sockeye, no, it certainly  
27           does not. But there is, I would say on a smaller  
28           scale, the same issues that we're faced with in  
29           Fraser River sockeye as they are within Barkley  
30           Sound. There's quite a significant salmon --  
31           sockeye salmon return to a number of lakes in that  
32           area. Two of them have some problems as far as  
33           Henderson and Hobiton, that I would call probably  
34           in a Red zone, as well, and fishery management  
35           actions have been put in place there to protect  
36           those stocks while still harvesting the stocks  
37           returning to Great Central and Sproat. First  
38           Nations have a large interest, both in FSC and  
39           also in an economic opportunity in Barkley Sound,  
40           and also there's a commercial and recreational  
41           fishery, so to me it was, you know, and the  
42           Department, it was a smaller scale Fraser River.  
43           And on top of that, it also had the additional  
44           complexity of a significant hatchery and that  
45           hatchery produces primarily chinook, but also  
46           coho. And so it was felt that that was more of a  
47           good scale to develop around a pilot, is what the

1 direction was.

2 MS. GAERTNER: All right. If I could have you bring  
3 forward Exhibit 562, Mr. Lunn. Mr. Commissioner,  
4 562 is a document that the Department of Justice  
5 produced for this Commission as a summary of a  
6 number of -- if it's not 562, then Ms. Pence  
7 thinks it's 571. Yes, she's absolutely right.  
8 Sorry about that.

9 Q And this is a summary of the Grant et al paper of  
10 2010, the Pestal and Cass paper of 2009. You're  
11 familiar with both of those papers, Mr. Ryall and  
12 Mr. Saunders?

13 MR. SAUNDERS: I'm familiar with the paper, yes, I'm  
14 familiar with both those papers, but not all the  
15 details.

16 Q All right. And it also references the Cohen  
17 report number 3, which is a 2011 report. Let's  
18 just turn to the Grant and Pestal and Cass report.  
19 You'll see that there's an identification of seven  
20 conservation units within the Fraser River sockeye  
21 salmon that from that Grant et al report are in  
22 the Red zone, and in the Pestal and Cass report  
23 we've got a number that are in the Red, and then  
24 in the slightly, I guess, amber, before we get to  
25 Yellow zones. Do you think this is a good start  
26 for priority conservation units on an interim  
27 basis?

28 MR. RYALL: Do I think this table is a good start?

29 Q Let's not go to the -- yeah, that which is  
30 reflected in the table. We've got one, two,  
31 three, four, five, six, seven conservation units  
32 in the Fraser River sockeye salmon that are  
33 identified as quite likely, in your own scientific  
34 review, as being in the Red zone. Why not start  
35 there for the identification of interim priority  
36 conservation units? I appreciate that you're  
37 going to have to ground truth these, and you're  
38 going to have to negotiate or consult, as it  
39 relates to those, but shall we start here?

40 MR. RYALL: Well, I think what I find interesting about  
41 this, and I had not seen this table before,  
42 there's three people or three groups of people and  
43 put together a table. And I notice there's  
44 similarities among them, but they're certainly not  
45 identical, and I'm quite struck by the  
46 differences, as well. So to me what I find  
47 interesting about this is that there is still a

1 range here.

2 And what, you know, it seems like some of the  
3 questions we've had over the last couple of days  
4 is why has the Department not had a list of  
5 priorities, and we should have just had it in  
6 2005. My perception could be wrong. But what I  
7 find about this interesting is that there is a  
8 challenge in doing this work. And I think what  
9 Mark was talking about, as far as some of the  
10 Science staff, is I think the best way forward on  
11 this, is to undertake a scientific review with all  
12 these parties and come up with one list, would be,  
13 I think, to be a good way to go forward.

14 Q Mr. Ryall, I might differ with you on that, and I  
15 might suggest another approach, which is that, as  
16 I understand it, Science isn't only going to be --  
17 isn't the only one that's going to be in there  
18 determining priority CUs, that we're going to  
19 actually look at other implications associated  
20 with that to do that priority. And so we might as  
21 well get started with this list and get them  
22 ground truthed with the parties that you're going  
23 to need to talk about and talk to, in particular,  
24 as the Wild Salmon Policy, First Nations groups,  
25 in order to get that priority group identified.  
26 So why not get started and figure out whether or  
27 not, given this range of options, and given what's  
28 going on the ground, whether we can identify some  
29 priority conservation units to get going, other  
30 than just Cultus.

31 MR. RYALL: Well, I think we have done that type of  
32 work, and as you know I've mentioned a couple of  
33 times, that there is within the annual IFMP a list  
34 that provides what are stocks of concern.

35 Q I'm going to take you to the IFMP in just a  
36 second. Mr. Saunders, do you agree that it might  
37 be useful to get this list out on the ground  
38 between the Department of Fisheries and Oceans and  
39 First Nations and see if we can get some priority  
40 conservation units identified at that level to  
41 start working under the Wild Salmon Policy?

42 MR. SAUNDERS: I think it would be a place to start a  
43 conversation around priority conservation units.

44 Q We might not want to wait until we've got a  
45 perfect list. We might not have any conservation  
46 units left; is that correct?

47 MR. SAUNDERS: I don't know that I would go that far.

1 But I think, as I said, there's a lot of other  
2 criteria that you would want to include. So again  
3 you'd have to sort of agree on the criteria, but  
4 this could form the basis for that development of  
5 the criteria and a starting list of priorities,  
6 yes.

7 Q And we have that information and we could start  
8 working on that now. Is that a yes?

9 MR. SAUNDERS: Yes.

10 Q Thank you. Let's just go right to the IFMP, Mr.  
11 Ryall, because I notice that in your evidence up  
12 until now and just recently, you're fond of  
13 relying on that process to see if we can move  
14 Strategy 4 along. And I wonder if we could have  
15 Exhibit 445, and Exhibit 946 brought forward.  
16 And, Mr. Ryall, that's the IFMP for -- finalized  
17 one for 2010 and 2011 and the draft one that your  
18 counsel took you to yesterday, as it relates to  
19 2011 and to 2012. Let's go into the stocks of  
20 concern. Let's start with the one in the 2010  
21 document. And if you look at the "Stocks of  
22 Concern" which is section 4.1 at page -- it starts  
23 at page 27 and it goes on to page 36. You're  
24 familiar with this document, Mr. Ryall. If I  
25 understand it right, as it relates to Fraser River  
26 sockeye salmon, there's only one stock of concern  
27 listed in there, is that correct, and that's the  
28 Cultus. You can scroll through it if that's  
29 necessary, but I think you're familiar with this  
30 document.

31 MR. RYALL: Are the only sockeye? Cultus is listed s  
32 well as Late runs of the group which is a  
33 significant management unit.

34 Q Is it listed? Is Late run -- Cultus and Late run  
35 is one unit.

36 MR. RYALL: No, but it's identifying them in the same  
37 heading.

38 Q All right.

39 MR. RYALL: And the reason for that is that they do co-  
40 migrate.

41 Q Okay.

42 MR. RYALL: One of the reasons.

43 Q So we've got one grouping, and the Cultus being  
44 the primary focus in that discussion under there  
45 as it relates to stocks of concern.

46 MR. RYALL: I think they are both important, and one is  
47 a -- Cultus Lake being a relatively small amount

1 of production as far as fish that are produced,  
2 and the Late runs being a very significant  
3 component produced mostly in Shuswap Lake, but in  
4 other systems, as well. And so there's quite a,  
5 you know, one is small and one's very large, and  
6 they both have different challenges.

7 Q I don't see any mention in this section on the  
8 IFMP on Cultus sockeye in 2010 or the recovery  
9 plan objectives that are now founding the 2011.

10 MR. RYALL: Mm-hmm.

11 Q Will you agree with me on that?

12 MR. RYALL: Yes, I would.

13 Q And why is that? Those objectives were accepted  
14 by the Department in 2005, but they don't show up  
15 in the plan until 2011. Can you explain to me  
16 that?

17 MR. RYALL: I wasn't involved in the discussion of why  
18 specifically those would be in, but I think the  
19 intent really is to provide clear direction, that  
20 there are these objectives, and that's what would  
21 be used to make decisions based on in-season, and  
22 that's why they're referenced in there, and --

23 Q So agree with me --

24 MR. RYALL: -- each year they're not exactly identical,  
25 any of these chapters, and they do modify each  
26 year, depending on discussions that unfold.

27 Q This is a fairly significant achievement to get  
28 objectives on a stock of concern in 2005. Why did  
29 it take five years for the Department to get it  
30 into the IFMP?

31 MR. RYALL: I don't view it as terribly significant. I  
32 do view it as providing more clarity around what  
33 the objectives are. And so it's now they're in  
34 this document, they were published back in 2005.  
35 It's not that they weren't available.

36 Q So I misunderstood your evidence yesterday, Mr.  
37 Ryall. I thought I understood from your evidence  
38 with your counsel that it was a significant step  
39 that we now have in the IFMP, the Cultus objective  
40 list.

41 MR. RYALL: I think it's good to have them in there to  
42 provide that clarity.

43 Q Now, I wonder, are you suggesting that the IHPC,  
44 which is the Integrated Harvest Planning  
45 Committee, is the committee that should be doing  
46 this kind of planning process?

47 MR. RYALL: I don't think it's the only place where

1           these discussions occur. They occur bilaterally  
2           with First Nations around the development of the  
3           IFMP.  
4        Q     It's really an outcome, isn't it, Mr. Ryall, that  
5           we get these objectives based from recovery teams  
6           or other teams that are working close on the  
7           ground in the kind of ways that we need to look at  
8           multiple issues, and that once we get to the  
9           harvest committee, how harvest will be affected by  
10          these objectives is really the only thing they're  
11          going to be considering. Would you agree with me  
12          on that?  
13       MR. RYALL: Who's going to be considering?  
14       Q     Well, the IHPC will have discussions around that.  
15       MR. RYALL: Around...?  
16       Q     Harvesting as it relates to the objectives.  
17       MR. RYALL: I don't think that's the only thing that's  
18          discussed there.  
19       Q     Could I go to Exhibit 342, please. This is the  
20          "Terms of Reference" for the IHPC, Mr. Ryall, and  
21          I don't see the development of Integrated Harvest  
22          Planning Strategy 4 anywhere in the Integrated  
23          Salmon Harvest Planning Committee's terms of  
24          reference. Am I mistaken? Exhibit 342, "Terms of  
25          Reference" for the IHPC.  
26       MR. RYALL: No, I don't think you're mistaken that  
27          there's no bullet specifically that says, that  
28          talk about Strategy 4 in the terms of reference.  
29       Q     And Mr. Commissioner has heard from Mr. Pat  
30          Matthew. You're familiar with Pat Matthew from  
31          the Secwepemc Fisheries Commission?  
32       MR. RYALL: Yes, I am.  
33       Q     And on February 11th, and you could it bring  
34          forward, on pages 12 through 13, Mr. Matthew  
35          describes his observation that the IHPC is mainly  
36          a discussion on harvesting and harvest  
37          opportunities and they don't talk about  
38          conservation or conservation issues. Do you  
39          disagree with him on that, or what's your response  
40          to Mr. Matthew's observations as it relates to the  
41          work of the IHPC?  
42       MR. RYALL: Well, I think that the Integrated Harvest  
43          Planning Committee has a focus on development  
44          management plans. That there are discussions  
45          around the, in particular, Fraser River sockeye.  
46          Very important is what is put in front as far as  
47          those options and discuss around those



1 implications. So there are discussions around  
2 those pieces of information about conservation.  
3 Why the Department is putting forward different  
4 types of escapement strategy. I have made  
5 presentations -- made a presentation, maybe it's  
6 not plural, on Wild Salmon Policy to the  
7 Integrated Harvest Planning Committee. There's  
8 only one place where that is discussed.

9 Q Mr. Saunders, when you did the Wild Salmon Policy  
10 and you concluded it in 2005, the IHPC was in  
11 place at that point in time, but just barely in  
12 place; is that correct? So we hadn't had  
13 experience with how it was going to work on the  
14 ground.

15 MR. SAUNDERS: I don't remember the exact timing, but  
16 that sounds correct. Yes.

17 Q All right. And it's fair to say that the IHPC has  
18 not yet got off the ground as it relates to First  
19 Nations participation in the IHPC. Mr.  
20 Commissioner has heard a fair bit of that. And  
21 you'd agree with me on that, Mr. Ryall, or Mr.  
22 Saunders? We don't have active mandated processes  
23 or participation by First Nations of the IHPC?

24 MR. RYALL: In some case I think we do, and in most we  
25 do not.

26 Q All right. So it's not a place where we can make  
27 decisions around integrated planning processes  
28 under Strategy 4?

29 MR. RYALL: It is an advisory process.

30 Q All right. I just have one cleanup question on  
31 Exhibit 756. 756 is your answers, your written  
32 answers to the questions I posed on behalf of my  
33 clients, Mr. Ryall, and thank you for taking the  
34 time and doing the work associated with that. And  
35 I'm not going to repeat or go to any of them that  
36 you've given answers on, but I do want to go to  
37 page 7, question number 21. It appears I might  
38 have used language that wasn't all that clear.  
39 Because I asked:

40  
41 Does DFO plan to use the FRSSI model to  
42 explore the possibility of moving into more  
43 known stock fisheries? If yes, how? If no,  
44 why not?  
45

46 And you didn't understand what I meant by the  
47 question. So let me just give you a little bit of

1 information.

2 My clients have instructed that it's more  
3 accurate to use the tem "known stock fishery" as  
4 distinct from "terminal fisheries" because we  
5 often don't have to wait to get to terminal  
6 fisheries in order to understand the stock that  
7 we're accessing, and so it can happen a little bit  
8 sooner sometimes than terminal fisheries. So the  
9 suggestion is we move to the word "more known  
10 stock", so you actually know what stocks you're  
11 accessing when the fishery, particularly a large  
12 fishery, occurs.

13 So with that background, I wonder if you  
14 could now answer the question, does DFO plan to  
15 use the FRSSI model to explore the possibility of  
16 moving into more known stock, or if you prefer to  
17 use "nearer to terminal" fisheries, and if so, is  
18 it possible, is it a useful model for doing that?  
19 If not, why not?

20 MR. RYALL: To use the FRSSI model to determine what  
21 would be -- the FRSSI model is not based upon the  
22 location of the fisheries. You'd have to come up  
23 a different tool.

24 Q A different tool. All right, then, I go next to  
25 -- so the answer to that is no. Then I go to the  
26 next question, which is 22:

27  
28 What is the status of the "in-river  
29 management model" that is being...developed  
30 by DFO and [Simon Fraser]...

31  
32 And you said that you thought there was  
33 significant process, but you recommended that I  
34 ask Mark Saunders about what the current status  
35 is.

36 So, Mr. Saunders, I wonder if you could let  
37 us know what the current status of the DFO-SFU  
38 model for moving into in-river management models  
39 is.

40 MR. SAUNDERS: My understanding is that they have a  
41 working model that can be -- at this point that  
42 can be used in -- you know, in a gaming situation  
43 to try to evaluate management scenarios. We have  
44 just approved some additional resources through  
45 PICFI to be -- to support some further work by SFU  
46 on it this year, and I don't know what the plan is  
47 in terms of re-engaging the committee that's -- or

1 the sort of ad hoc committee that's been working  
2 on that, of the various interests that are -- but  
3 it's an -- still an active development of the tool  
4 and it could be something that could be worked  
5 with right now.

6 Q Would First Nations be involved in helping to  
7 establish that model and the criteria that would  
8 be developed to determine that model?

9 MR. SAUNDERS: Technical experts that have in the past  
10 represented First Nations or worked on behalf of  
11 First Nations have been involved, like Mike Staley  
12 and others.

13 Q All right. I just have one final question arising  
14 from Mr. Harvey's suggestions, and I think this is  
15 a question for you, Mr. Ryall. The issue of  
16 traceability and the MSC certification isn't  
17 limited just to First Nations fisheries, is it.  
18 Traceability is an issue that MSC certification is  
19 interested as it relates to all fisheries.

20 MR. RYALL: Well, in addition to MSC, we in the  
21 Department are interested, as well. So, yes, and  
22 it's all fisheries.

23 MS. GAERTNER: Thank you. Those are my questions, Mr.  
24 Commissioner.

25 THE COMMISSIONER: Thank you, Ms. Gaertner.

26 MR. WALLACE: Mr. Commissioner, it's 4:01. I  
27 understand Mr. Timberg has one or two questions.  
28 I have three areas I wish to canvass. I would ask  
29 that we be able to put those questions in writing  
30 to these witnesses. I suggest Mr. Timberg go  
31 first, and we will reply, put ours in as quickly  
32 as we can. Thank you.

33 THE COMMISSIONER: Thank you very much. This is the  
34 completion of this panel, then, is it?

35 MR. WALLACE: Except for the re-examination.

36 THE COMMISSIONER: Subject to...

37 MR. WALLACE: That's correct.

38 THE COMMISSIONER: I'm sorry, I'm guilty of what I  
39 know we've all been guilty of, and that's not  
40 turning on the mike.

41 Mr. Saunders, and Mr. Ryall, Mr. Morley and  
42 Mr. Young, familiar faces to me now, thank you for  
43 returning once again to assist the Commission with  
44 your knowledge and your willingness to answer the  
45 questions of counsel here today who have posed a  
46 wide range of questions to you. I am very  
47 grateful that you are willing to do so and took

1           the time to do so, and thank you for assisting the  
2           Commission. Thank you very much.  
3       THE REGISTRAR: The hearing is now adjourned for the  
4           day and will resume Monday at ten o'clock.

5  
6                       (PROCEEDINGS ADJOURNED TO JUNE 6, 2011 AT  
7                       10:00 A.M.)  
8  
9

10                       I HEREBY CERTIFY the foregoing to be a  
11                       true and accurate transcript of the  
12                       evidence recorded on a sound recording  
13                       apparatus, transcribed to the best of my  
14                       skill and ability, and in accordance  
15                       with applicable standards.  
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19                       \_\_\_\_\_  
20                       Susan Osborne  
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22                       I HEREBY CERTIFY the foregoing to be a  
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27                       with applicable standards.  
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32                       Karen Hefferland  
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34                       I HEREBY CERTIFY the foregoing to be a  
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37                       apparatus, transcribed to the best of my  
38                       skill and ability, and in accordance  
39                       with applicable standards.  
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42  
43                       \_\_\_\_\_  
44                       Pat Neumann  
45  
46  
47